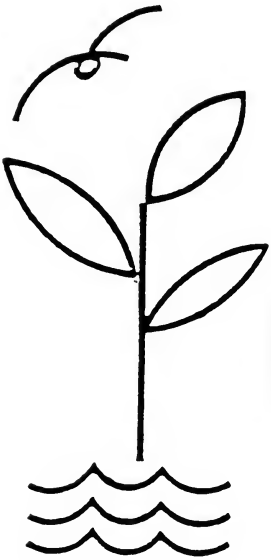
MONTANA / EPA



DRAFT

1989

AGREEMENT

MONTANA/ENVIRONMENTAL PROTECTION AGENCY

COOPERATIVE AGREEMENT

Agreement on the Management and Administration of Montana's Environmental Programs

July 1988 - June 1989

June 1988

This is the draft Montana/Environmental Protection Agency Cooperative Agreement with Enforcement Agreements for FY 89. This Agreement addresses environmental programs for the State of Montana.

We will consider any view or comment on the material you wish to offer until June 13, 1988. Send your comments to:

Environmental Protection Agency
Federal Building
301 South Park, Drawer 10096
Helena, Montana 59626

If you do not wish to receive future copies of this Agreement, or have a name or address correction, please return the address label with appropriate notation to the above address.

The final Agreement will be available at principal State libraries approximately July 30. Use of the inter-library loan system is available for smaller communities.

Approved:

The undersigned hereby execute this cooperative agreement on the management and administration of Montana's Fiscal Year (FY)1989 Water Pollution Control, Safe Drinking Water, Underground Injection Control, Air Quality, Solid and Hazardous Waste Management, Superfund, Pesticides and Toxics programs. The enforcement agreements have been included as an integral component of this cooperative agreement.

STATE OF MONTANA

Ted Schwinden Governor, State of Montana	Date
John J. Drynan, M.D., Director Department of Health and Environmental Sciences	Date
Keith C. Kelly, Director Department of Agriculture	Date

Environmental Protection Agency

James J. Scherer Regional Administrator	Date
John F. Wardell, Director Montana Office	Date

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EXECUTIVE SUMMARY

INTRODUCTION

The goal of Montana's environmental health programs is to protect public health while sustaining a spirit of cooperation between environmental protection and resource development. Accomplishing this requires close coordination between the Departments of Health and Environmental Sciences (DHES) and Agriculture (DOA) for the state, and the federal government's Environmental Protection Agency (EPA).

Through agreements, research, monitoring, technical expertise and other areas of cooperation, the DHES, DOA and EPA are helping Montanans maintain a quality lifestyle. The Montana/EPA Agreement (MEA) contributes to this process by consolidating all narratives, work plans and enforcement agreements into one document, thus producing a concise document, and reducing paperwork and duplication of effort.

The MEA programs are comprised of DOA's pesticide program, DHES's air, water and solid and hazardous waste programs, and EPA's toxics and underground injection control programs.

The elements of the MEA include: (1) An overview of the state's environment, (2) identification of priority objectives, (3) strategies to accomplish priorities, (4) detailed work plans, activities and commitments and 5) cooperative enforcement agreements.

To better understand the programs, and what they plan to accomplish, each major area of environmental concern has a narrative discussion of its programs, followed by media work plans defining the proposed work.

STATE/EPA AGREEMENT

HIGHEST PRIORITY OBJECTIVES

The State of Montana and the EPA Montana Office reviewed the environmental programs and established the following "highest priority objectives." Although these objectives have been singled out as primary goals for the Jul, 1988 - June 1989 time frame, the individual programs have many additional important goals that also must be addressed during this period. The highest priority objectives include:

1. Investigate and correct environmental and public health concerns in the Clark Fork River drainage.

2. Issue land disposal permits under the Resource Conservation and Recovery Act (RCRA) hazardous waste program to facilities in Montana. These permits are required to be issued by November 1988. Four facilities, Exxon, Conoco and Cenex (Billings area) and Burlington Northern (BN) (Paradise), are seeking land disposal permits.

3. Implement RCRA Facility Management Plans at sites in the state. These plans are being implemented at eight facilities:

   Exxon (Billings)
   Conoco Refinery and Landfarm (2) (Billings)
   BN (Somers)
   BN (Paradise)
   Cenex (Laurel)
   Transbas (Billings)
   Montana Refining (Great Falls)

4. Implement the underground storage tanks program to correct environmental and public health concerns caused by leaking underground storage tanks in Montana.

5. Implement activities under the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) to correct public health and environmental problems at Superfund Program hazardous wastes sites in Montana. These sites are:

   Anaconda Smelter (Anaconda)
   Silver Bow Creek (Butte area and Clark Fork between Warm Springs Ponds and Missoula)
   Milltown Reservoir (Milltown near Missoula)
   East Helena (East Helena)
   Libby Groundwater (Libby)
   BN Site (Somers)
   Montana Pole Tie-treatment Facility (Butte)
   Idaho Pole Treatment Facility (Bozeman)

6. Protect public water supply systems.

7. Address nonpoint source contamination problems. Nonpoint contamination of lakes and streams is a serious contamination

problem in Montana.

8. Implement the PM10 air quality monitoring and control strategies. PM10 is the particulates in the air inhaled into the lungs (less than 10 microns in size).

9. Implement an effective pesticides enforcement and certification program.

10. As appropriate, undertake timely and appropriate enforcement actions.

11. As appropriate, use multi-media efforts to address environmental and public health problems. For example, Superfund Program studies and water quality studies are being coordinated in the Clark Fork drainage.

PROGRAM DESCRIPTIONS AND WORK PLANS

Water

Water Quality Management Program

Passage of the 1987 amendments to the Federal Clean Water Act will shift program emphasis in FY 1989 toward control of nonpoint sources of pollution, which account for 95 percent of the documented water quality problems in Montana. Section 319 of the Federal Clean Water Act establishes a national plan for controlling nonpoint source pollution and a system to share the state and local costs of implementing controls. To be eligible for federal implementation funds, a state must prepare and submit to EPA before August 4, 1988, a nonpoint source assessment report and a nonpoint source management program.

In FY 1989, Montana will finalize and submit for approval its nonpoint source assessment report and management program. Meanwhile, the state will continue to refine these documents, to target additional waterbodies for implementation and set milestones for controls, and to pursue nonfederal sources of funding to meet the 40 percent nonfederal match requirement. Once the state assessment report and management program are approved by EPA and implementation funds are secured, the state will proceed with implementing the approved program.

Monitoring of the Clark Fork River will continue as the other major element of the Water Quality Management Program in FY 1989. Flows, nutrients, metals, suspended solids and other variables will be measured at 32 sites, 16 times during the year. Macroinvertebrates and periphyton will be collected once in August at 20 sites. A complete complement of nutrient data will be measured 16 times in an additional 18-20 tributaries and wastewater discharges as a part of the Clark Fork River/Lake Pend Oreille water quality assessment requested by Congress under the new Section 525 of the Clean Water Act. Also in FY 1989, the state will prepare interpretive reports of Clark Fork River monitoring results for each of fiscal year 1985 through 1988. Program staff will assist the Governor's Office in completing the Clark Fork River Status Report and Action Plan.

The state will continue to fund monitoring of Flathead Lake and tributaries by the University of Montana Biological Station as part of the Master Plan for monitoring surface water quality in the Flathead Basin. The University of Montana study of factors responsible for growths of nuisance algae in the Clark Fork River will be monitored to its conclusion in December 1988. Also in FY 1989, the Water Quality Management Program staff is planning an intensive survey of the Blackfoot River to ascertain possible causes for reportedly poor fishing in recent years. Additionally, development of the 305(b) Waterbody Tracking System for Montana will continue, to include the detailed option if time allows.

Program staff will continue to provide the following services:

- Process 3(a) authorizations and Water Quality standards (401) certifications
- Provide bioassay and biomonitoring support
- Conduct complaint investigations
- Provide quality assurance and data management support

Review mine plans and forest practices
- Provide assessment and planning assistance to Conservation Districts and other agencies
- Provide information on and interpretations of water quality conditions and water quality laws, regulations, policies and programs

Wastewater Discharge Permit Program

Montana's Wastewater Surface Discharge Permit Program began in 1988. With passage of PL 92-500 (Water Pollution Control Amendments of 1972), a federal wastewater discharge permit program was also created. In 1974 Montana applied for and received authority from EPA to administer this program, thus minimizing a duplication of effort.

Tables #1 and #2 list the various categories of major and minor industrial wastewater discharges. Table #3 lists the number of facilities that presently have general wastewater discharge permits.

Table #4 lists the municipal discharges. Table 5 lists the major permits to be issued by June 30, 1989. Twenty-five of Montana's 26 major municipalities have treatment facilities capable of meeting secondary effluent limitations. (Wolf Point is reconstruction its present facilities to meet secondary limits.) Major and minor wastewater treatment facilities are tracked for compliance.

Many of the communities meeting secondary discharge limitations still have treatment facility needs. Kalispell, Whitefish and Columbia Falls are working toward meeting limitations for total phosphorus. The phosphorus limitations were imposed to help slow the eutrophication process in Flathead Lake. Phosphorus removal should begin at these facilities (except for Kalispell) in FY 1988. National secondary treatment standards now include the provision for relaxed bio-chemical oxygen demand (BOD) and total suspended solids (TSS) limits for certain lagoon and trickling filter facilities where water quality standards would not be affected by allowing the relaxed limits. This allowed some of the smaller communities to meet effluent limitations with a minimum amount of capital improvements.

Table 1. Major Industrial Wastewater Discharge Permittees

Category	Total No.
Sugar Refining	2
Coal Mines	3
Smelter	2
Plywood Mills	2
Oil Refineries	5
Paper Mills	1
Generating Plants	2
Ore Mining	1
Railroads	1
Totals	19

Table 2. Minor Industrial Wastewater Permittees

Category	Total Number
Oil Wells	17
Mines	90
Smelters	1
Railroads	4
Lumber & Plywood Mills	1
Sand & Gravel	5
Slaughter Plants	2
Cement Plants	2
Chemical Plants	3
Generating Plants	1
Industrial Sewage Treatment Plants	5
Miscellaneous	13
Totals	144

Table 3. General Permit Summary

General Permit Category	Effective Date of General Permit	Authorizations Issued Total	Currently Active
Suction Dredge*	5/21/87	120	60
Fish Farm	11/19/84	18	18
Construction Dewatering	4/3/87	116	12
Sewage Lagoon	6/14/83	36	25
Feed Lot	7/1/84	44 (large) 43 (small)	44 large 43 small
Totals		365	201

*Considered by EPA to be issued under 404 rather than 402 authority.

Table 4. Municipal Wastewater Discharges with Individual Montana Pollution Discharge Elimination System (MPDES) Permits

	Major	Minor
Wastewater Treatment Facilities Municipal, State & Federal	26	51
Municipal Water Treatment Facilities/ Wastewater Disposal	--	10
Totals	26	71

Table 5. Major Permits To Be Issued, 1988-1989.

Major Industrial	Major Municipal
MDU - Sidney	Laurel
MPC - Corrette	Lewistown
Anaconda Minerals - Great Falls	Hardin
Montana Resources - Butte	Dillon
Montana Gold & Sapphires	Deer Lodge
Champion - Libby	Glendive
Conoco, Inc.	Miles City
Exxon Co. USA	Cut Bank
Farmers Union Central Exchange	Glasgow
Montana Refining Co.	Polson
Montana Rail Link - Livingston	Hamilton
Western Energy	Wolf Point

Specific priorities for FY 1989 include:

- Issue, reissue or modify major permits ensuring that water quality standards are met; toxic criteria limitations, effluent toxicity testing, pretreatment requirements and sludge handling requirements are imposed, and appropriate effluent limitations and self-monitoring are provided.
- Reduce backlog of 20 minor permits.
- Process 3(a) authorizations and Water Quality Standards (401) certifications.
- Provide timely complaint response and follow-up.
- Provide compliance monitoring annually for all major permittees, completing form EPA-3560-3 for each and entering data into Permits Compliance System (PCS).
- Compliance monitor minor dischargers where self-monitoring data is suspect. A 104(b)(3) grant will be used for increased compliance monitoring of minor dischargers.
- Continue the quality assurance (QA) program to assure accurate self-monitoring data for the MPDES program.
- Pursue a vigorous compliance inspection program on mining activities during the summer months when activity is at its peak and gather information concerning impacts on water quality.
- Provide appropriate enforcement and report to EPA, giving priority to major dischargers and federally-funded minor municipalities.
- Provide timely review and appropriate notification on self-monitoring information. Enter Discharge Monitoring Report (DMR) data into PCS on a timely basis.
- Finalize the revised National Pollution Discharge Elimination System (NPDES) delegation agreement.
- Finalize revision of MPDES regulations.

Groundwater Pollution Control Program

State groundwater regulations, called the Montana Groundwater Pollution Control System (MGWPCS), were promulgated by the Board of Health on October 29, 1982.

The MGWPCS program primarily addresses the protection of shallow groundwater aquifers from potential pollution sources, such as surface impoundments, waste piles, landfills, disposal systems and spills of various contaminants. Any of these potential pollution sources (except spills) which are not reviewed and approved, or required to obtain an operating permit under other regulations, are required to apply for and obtain a groundwater pollution control permit as outlined under MGWPCS. The WQB permits section reviews these applications and follows through the administrative procedures of issuing and managing the permits, including compliance monitoring, review of self-monitoring, etc.

For similar sources that are reviewed and approved and or permitted under other regulations, the MGWPCS rules do not require additional permitting; compliance is required with the state's groundwater quality standards as outlined under MGWPCS. Compliance with the standards is then addressed within the other agency approval or permit. Examples of these joint reviews are Major Facility Siting Act (MFSA) projects under the jurisdiction of the Department of Natural Resources and Conservation (DNRC), mining and milling operating permits, administered by the Department of State Lands (DSL), subdivision and other public or private waste treatment systems approved by the DHES and landfills and other solid waste disposal sites licensed by the DHES.

In the last few years, groundwater contamination by petroleum fuels has evolved into the Water Quality Bureau's (WQB) number one problem in groundwater pollution control. It has required more staff time than any other aspect of the groundwater pollution control program. Recent federal and state legislation and regulations provide authority to the DHES for the implementation of an underground storage tank (UST) program. The Solid and Hazardous Waste Bureau (SHWB) is accomplishing the registration and tracking, and the WQB the subsurface investigations as leaks or spills occur. The SHWB has provided funding through the UST program for a Full Time Equivalent (FTE) position in the WQB groundwater pollution control program. This position is responsible for the investigation and follow-up of spills and leaks revealed through the UST program. A computer listing system for tracking and compiling data from compliance inspections and complaint investigations has been implemented. The WQB is providing a permanent time for liaison with the DSL. This should improve coordination in reviewing the water quality aspects of mining activities.

Other portions of the program which require significant resources are: review and processing of permit applications under MGWPCS (45 have been done to date), compliance tracking and inspection of existing permittees, joint review of applications for permits or approvals under other regulations (normally about ten per year are done) and numerous complaint investigations involving potential groundwater pollution.

Priorities for FY 1988 include review and issuance of permits under the MGWPCS program and maintenance of groundwater complaint investigations. The staff will continue to review the current status of existing MGWPCS permits. Several contracted studies are underway including: the pollution potential mapping of the aquifer in the Missoula Valley, pesticide impacts on alluvial aquifers, nitrate contamination of Evergreen alluvial aquifer. An additional FTE will be added in the groundwater program.

ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	RESOURCES WORKYEARS EPA	RESOURCES DOLLARS STATE	RESOURCES DOLLARS EPA	RESPONSIBLE AGENCY
WATER POLLUTION CONTROL							
I. General Administration			2.2	0.1			
A. Provide general program direction and supervision and development of staffing and budget needs.							WQB
B. Administrative support.							WQB
C. General policy guidance and periodic review of program outputs.							WQB, EPA
II. Enforcement			1.8				
A. Investigate alleged violations of Montana water quality laws and rules.	Ongoing						WQB
B. Initiate appropriate legal response ranging from enforcement letter to filing of a civil complaint.	Ongoing						WQB
III. Wastewater Discharge Permit Program			4.7	1.1			
A. Issue, reissue, or modify within 6 months of application or expiration date major, minor, and general permits ensuring that water quality standards are met, toxic criteria limitations, RCRA and pretreatment requirements are imposed, residual wastes are handled adequately and appropriate effluent limitations and self-monitoring are provided. Permits will include appropriate reopener language to allow sludge control requirements as regulations and requirements are developed. Montana EPA Office issues permits on Indian Reservations.	16 majors	24 majors					WQB, EPA
B. Implement the whole effluent toxics control program including the following required elements: two species testing of all major dischargers, mandatory implementation of toxics reduction evaluation if							WQP, EPA

ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	RESOURCES WORKYEARS EPA	RESOURCES DOLLARS	RESPONSIBLE AGENCY
toxicity is detected, and incorporation of an enforceable limit on toxicity in the permits in accordance with the procedures adopted in December 1987.						
C. The State will maintain laboratory capability to conduct biomonitoring inspections and to evaluate discharger's biomonitoring procedures.						WQB
D. Submit Individual Control Strategies for all major and significant minor point sources discharging into 304(l)(B) waterbodies of known toxic problems.		2/89				WQB
E. Develop and implement annual compliance inspection plan.		6/1/89				WQB
1. All major municipal facilities will be inspected compliance monitored or O&M inspected) at least annually with composite sampling at mechanical plants whenever possible. All municipal facilities with approved pretreatment programs will be inspected or audited.	10	26				WQB, EPA
2. All major industrial facilities will be compliance monitored (sampled or evaluated) at least annually.	6	19				WQB
3. Minor municipal and industrial facilities will be inspected when problems are suspected and as time permits. EPA conducts inspections on Indian Reservations.						WQB, EPA
F. Provide appropriate enforcement actions in accordance with State/EPA Enforcement Agreement and State Enforcement Management System (EMS) document.						WQB, EPA-MT & DENVER
1. Provide quarterly noncompliance reports for majors using national definition of reportable noncompliance.	2	4				WQB

ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	RESOURCES WORKYEARS EPA	RESOURCES DOLLARS	RESPONSIBLE AGENCY
2. Provide summary of all formal enforcement actions taken at the end of each quarter.	2	4				WQB
3. Initiate enforcement actions on those permits listed in the QNCR which are in significant noncompliance.						WQB
G. Provide review and appropriate notification on self-monitoring information as reports are received. EPA reviews self-monitoring reports for Indian reservation facilities for which responsibility has not been delegated. Conduct joint State/EPA monthly DMR review meetings.	Ongoing 6	 12 12				WQB, EPA WQB, EPA
H. Provide quarterly compliance reports for completed PL 92-500 funded minor POTWs.	2	4				WQB
I. Jointly monitor (audits and inspections) approved local pretreatment programs.	6	6				EPA, WQB
J. Submit delegation package for pretreatment program.	11/1/88					WQB, EPA
K. Investigate complaints of illegal discharges and possible quarterly violations of water quality standards and provide follow-up.	Quarterly Review	Quarterly Review				WQB, EPA
L. Continue implementation of the municipal compliance strategy such that all NMP minor facilities not under construction are on enforceable compliance schedules by 7/1/88. Montana EPA prepares NMP minor quarterly status reports. Track compliance with compliance schedules and follow-up on slippage.	2	2				WQB, EPA
M. Provide copies of all draft permits, correspondence and file documentation for major permits to Montana Office.	As Required	As Required				WQB
N. Follow up on the most significant problems (<75% acceptable rating) identified through the DMR QA		2/15/89				WQB

ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	RESOURCES WORKYEARS EPA	RESOURCES DOLLARS	RESPONSIBLE AGENCY
results of this program will be utilized as a tool in selecting inspection candidates.						
O. Develop a written agreement for management of PCS which defines respective responsibilities and procedures for achieving the National PCS Policy.		3/1/89				EPA, WQB
P. Complete revision of the NPDES delegation agreement, State implementing regulations, and program description.	11/1/88					EPA, WQB
Q. Wasteload Allocation/Total Maximum Daily Load	As Required					WQB
1. Develop WLA's and TMDL's when appropriate and as needed.						
IV. Operation and Maintenance/Operator Training			.8	.1		WQB
A. Conduct 7500-5 on-site inspections, or the equivalent, using State Inspection forms. Publicly owned wastewater treatment works will be inspected at least once every three years.	25	50	Also utilize Resources in Drinking Water			WQB
B. Publish Big Sky Clearwater.	8/88	2/89				WQB
C. Conduct annual operators school at Montana State	9/88					WQB
D. Coordinate and monitor 104(g)(1) program and consider development of proposal as resources allow.						WQB
E. Review progress, provide assistance as requested in the conduct of the 104(g)(1) grant activities.	Quarterly	Quarterly				EPA/RO
F. Start up 109(b) Regional Training Facilities in accordance with Statewide Operator Training strategies.	12/88					WQB,NMC

ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	RESOURCES WORKYEARS EPA	RESOURCES DOLLARS	RESPONSIBLE AGENCY
G. Issue certification licenses to operators and give examinations to new operators.						WQB & Water & Wastewate Operator Certificati Board
1. Licenses issued.		600				
2. Exams given.		150				
H. Coordinate wastewater training program.						
1. Needs identification.						WQB/NMC
2. Publish yearly training calender.						
3. Conduct training seminars and workshops.						
V. Water Quality Standards			1.1	0.3		
A. The State will review its existing degradation (non-degradation) policy in order to determine its consistency with 40 CFR 131.12, and will prepare recommended language to be included in the State regulations ensuring the policy includes required public participation, provisions for Outstanding Natural Resource Waters, and implementation procedures consistent with 40 CFR 131.12.						WQB
State will obtain public input for revisions to the Nondegradation Rules and submit revisions to Water Pollution Control Advisory Council and EPA.	10/1/88					WQB
B. The State will identify toxic pollutants of concern and adopt appropriate numeric criteria to protect designated uses. In addition, for narrative "free from toxics" standards, the State will develop/adopt legally enforceable implementation procedures for those narrative standards.						WQB
State will submit to EPA, a second draft of WQS Implementation Procedures document (including narrative to implement "free from toxics" no lethality in mixing zones, explanation of variance/temporary modifications, WLA/TMDL procedures, etc.).	10/1/88					WQB

ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	RESOURCES WORKYEARS EPA	RESOURCES DOLLARS	RESPONSIBLE AGENCY
C. EPA will review and comment on second draft of WQS Implementation Procedures document and the revised nondegradation rules within 60 working days of receipt of these documents.						WQB
D. State will submit proposed nondegradation revisions to Board of Health.		2/1/89				WQB
E. State will submit final WQS Implementation Procedures document and revised Nondegradation Rules.		3/1/89				WQB
F. EPA approval/disapproval of revised Montana Non-degradation Rules within 45 working days of receipt.		5/15/89				EPA
G. The State will identify water bodies needing UAA and will submit a schedule for Use Attainability Analyses for unclassified water bodies, (if fishable/ swimmable use designations not included in WQS revisions) water bodies without primary contact recreation, aquatic life, and water bodies where changes to subcategory uses with less stringent criteria are contemplated.	7/31/88					WQB
H. State will perform Use Attainability Analyses for unclassified water bodies and submit results to EPA.		6/30/89				WQB
I. The State will review its general WQS policies to ensure appropriate requirements and implementation procedures apply e.g.,		4/1/89				WQB
1. Mixing zones: the State will identify methods by which mixing zones are established to ensure no lethality within the mixing zone.						
2. Variance/temporary modifications: the State will review/revise the variance provisions to ensure the policy includes public participation, EPA review and approval, and criteria identified in 40 CFR 131.20.						

ACTIVITY/OUTPUT	MILESTONE		RESOURCES			RESPONSIBLE AGENCY
	THROUGH MIDYEAR	THROUGH END OF YEAR	WORKYEARS STATE	WORKYEARS EPA	DOLLARS	
J. The State will review available information on conventional/traditional pollutants/constituents and revise/adopt criteria appropriate for protection of designated uses.	Ongoing					WQB
K. The State will review aquatic life classifications where needed and add appropriate language reflecting the State's intent to protect aquatic life.	Ongoing					WQB
L. The State should identify any stream segment, point discharges or other pollution sources for which joint State/EPA biomonitoring activities are needed in FY 89.	7/31/88					WQB
M. The State will develop, if it does not already exist, the ability to evaluate biomonitoring procedures used to determine effluent toxicity and interpret the results of such test.	9/1/88					WQB
N. The State and EPA will begin developing methods to address implementation of the 307(a) human health criteria on a case-by-case basis as part of the State's implementation procedure for controlling discharge of toxic substances.						EPA/WQB
O. EPA will provide technical assistance to the State for UAA and toxic pollutant criteria development, toxic implementation development, antidegradation implementation procedures, and Biomonitoring activities.	Ongoing					EPA

ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	RESOURCES WORKYEARS EPA	RESOURCES DOLLARS STATE	RESOURCES DOLLARS EPA	RESPONSIB AGENCY
WATER QUALITY MANAGEMENT			0.8	.25	13,150		
I. Administration							
A. Provide general program direction, administrative and supervisory support to the WQ Management Section.	Ongoing	Ongoing					WQB
B. Meet to discuss program accomplishments and to identify and report progress.	Quarterly	Quarterly					WQB, EPA
C. Prepare a program oversight report on WQM activities.	12/88	6/89					EPA
D. Incorporate RPCPO WQM proposals into State WQM Workplan.	7/88						WQB
II. Water Quality Assessment/Planning/Reporting			1.5	0.2	16,803		
A. Complete the additional evaluation needed for the suspect problem waterbodies on the 304(1) lists and include those with confirmed problems on the updated 304(1) lists.		2/89					WQB
B. EPA approves or disapproves submittal of final 304(1) lists.		4/89					EPA
C. Prepare and submit Section 205(j) annual update report on the water quality of the State.		4/89					WQB
D. Integrate WQ monitoring strategy into 1988 305(b) report.	7/88	4/89					WQB
E. Submit monitoring checklist forms A & B.	7/88						WQB
F. Attend Region VIII Water Quality Assessment and Monitoring Workshop.	12/88						WQB, EPA
G. Submit comprehensive 319 Statewide Nonpoint Source Assessment Report.	8/88						WQB
H. Continue development and use of waterbody system for reporting purposes.	Ongoing	Ongoing					WQB

ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	WORKYEARS EPA	DOLLARS STATE	DOLLARS EPA	RESPONSIBLE AGENCY
I. Integrate water quality assessments, priortization of control needs and management planning utilizing the existing mechanics of the 305(b) report, MPDES permits, MGWPCS permits, Nonpoint Management Program, CPP, WQM Plans, WQS, 401 Certification, State/EPA Agreement.	Ongoing	Ongoing					WQB
III. Monitoring							
A. Clark Fork River - Fixed Station			2.3	.05	127,508		WQB
1. Continue sampling and chemical analysis at 32 stations 16 times per year. Collect and analyze periphyton samples and macroinvertebrate samples at 20 stations once.							
2. Carry out Section 525 monitoring to study nutrient/ nuisance algae relationships in the Clark Fork River (coordinated with EPA-Duluth, EPA-EMSL, Idaho, Washington, EPA Region VIII, Region X).							WQB
B. Continue periodic sampling to check for effectiveness and make adjustments to the Freezeout Lake/Priest Butte Lakes/Teton River WQM Plan.							WQB
C. Publish completion reports on WWTP "Before-and-After" studies.		6/89					WQB
D. Continue support monitoring of Flathead Lake and tributaries by UM Yellow Bay Biological Station. Work with monitoring agencies to evaluate and present results.							WQB
E. Continue periodic sampling of Stanley Creek and Lake Creek to assess ASARCO mine impact.							WQB
F. Assess water quality benefits resulting from Abandon Mine Land Reclamation Program activities as time allows.							WQB

ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	WORKYEARS EPA	DOLLARS STATE	DOLLARS EPA	RESPONSIBLE AGENCY
G. Assess water quality improvement as a result of Nonpoint Source Management Program Implementation.							WQB
H. Conduct additional monitoring/surveillance in support of permits, construction grants, WQS, WLA, NPS and UAA studies.							WQB
I. Conduct a short-term intensive survey of the mainstem Blackfoot River (to include metals scans, macroinvertebrate analyses and ambient water Ceriodaphnia bioassays) in support of DFWP studies and in response to Trout Unlimited concerns.							WQB
IV. NONPOINT SOURCE			3.8	.30	29,309		
A. Oversee development and involvement of interagency Statewide Nonpoint Source committees.	Ongoing	Ongoing					
B. Hold public meetings on Nonpont Assessment Report and Management Program.	7/88						WQB
C. Submit Assessment Report and Management Program to EPA.	8/88						WQB
D. EPA approve/disapprove Assessment Report and Management Program.	9/88*						EPA
E. Submit application for Implementation Projects for potential 201(g)(1)(B) funding.	9/88						WQB
F. EPA take action on State's 201(g)(1)(B) funding application. (If *FFY 1987 201(g)(1)(B) funds are requested, every effort will be made to take action on application before October 1, 1988.)	9/88*						EPA

*See resources by program element on page (to be inserted in final agreement) and for varied water programs on page (to be inserted in final agreement.

ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	RESOURCES WORKYEARS EPA	RESOURCES DOLLARS STATE	RESOURCES DOLLARS EPA	RESPONSIBLE AGENCY
G. State will submit annual Nonpoint Progress Report.	11/88						WQB
H. State will track implementation of Nonpoint Program milestones in accordance with schedule established in Nonpoint Management Program (assuming implementation funding is available).	Ongoing	Ongoing					WQB
I. Submit application for Implementation Projects for potential 319 funding.	11/88						WQB
J. EPA take action on State's 319 funding application.		2/89					EPA
K. State will continue development and updating of Nonpoint Source Assessment Report and Management Program.	Ongoing	Ongoing					WQB
V. 404 Permit Review and 401 Certification	Quarterly Review	Quarterly Review	0.55	.40	1,462		
A. Review all 404 permit applications and provide comments. Establish conditions for 401 certification to prevent WQS violations or deny certification for projects that will violate WQ standards. Conduct inspections as necessary. EPA will provide 401 certification for proposed 404 permits on Indian Reservations and provide appropriate comments.	As appropriate						WQB, EPA
B. States and EPA will recognize that wetlands are waters of the U.S. and as such, will receive the same level of protection from discharges of pollutants pursuant to the Clean Water Act.							WQB, EPA
C. Assist with the coordination of 124, 310 and 404 permit programs.							WQB
D. Issue 3(a) authorizations for short-term activities which exceed turbidity standards. Conduct inspections as necessary to verify compliance.							WQB

ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	WORKYEARS EPA	DOLLARS STATE	DOLLARS EPA	RESPONSIBLE AGENCY
E. Review and comment on proposed 404 permits to assure that projects are compatible, or that appropriate conditions are included to insure compliance with 404(b)(1) guidelines. Monitor selected projects for compliance with 404 permit stipulations.							EPA
F. Develop a plan for protecting wetlands from discharges of pollutants through application of the NPDES program, the 404 program, 401 certification, and other programs.							EPA, WQB
G. Participate in Interagency Highway/Wetlands Evaluation and Mitigation effort promoted by Federal Highway Administration.							EPA,WQB
H. EPA will pursue effective enforcement of 404 program through coordination with COE and direct EPA enforcement.							EPA
VI. Data Management/Quality Assurance	Ongoing	Ongoing	0.9	.10	6,575		
A. Continue data handling, editing, distribution, storage and reporting activities to support water quality program needs including the annual updating of the data and input all data from monitoring activities into STORET.							WQB
B. Process water quality data as submitted by the State into STORET.							EPA
C. Develop data management system for WQB biological data.		As Time Allows					WQB
D. Maintain paper (basin) files of ambient WQ data.							WQB
E. Continue development and use of Waterbody System (WBS). (See Water Quality Assessment).							WQB, EPA
F. Continue quality assurance/quality control activities to support water quality program needs.							WQB,EPA

ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	RESOURCES WORKYEARS EPA	RESOURCES DOLLARS	RESPONSIBLE AGENCY
GROUNDWATER POLLUTION CONTROL PROGRAM (excludes UIC)			1.5	.1		
A. Issue, reissue or modify MGWPCS permits.	3	6				WQB
B. Joint review of DSL operating permits, exploration licenses, MFSA projects, Superfund projects, wastewater system plans, subdivision projects, SHWB landfills.	5	10				WQB
C. Provide sampling or evaluation inspections on permittees, joint inspections for groundwater compliance on other agency projects. Coordinate with MBMG Groundwater Information Center.	15	30				WQB
D. Investigate complaints of groundwater pollution. Provide recommendation for enforcement and cleanup follow-up. Coordinate with SHWB on underground tank program, including petroleum fuel spills.		Quarterly Review	Quarterly Review			WQB
E. Monitor contract overseeing progress of investigative and clean-up work being performed at 12 Burlington Northern Railroad fueling and roundhouse sites statewide.						WQB
F. Provide report on progress made in implementing the recommendations made by the Governor's Ground Water Advisory Council in the document entitled "Issues in Ground Water Management - An Evaluation of Montana's Ground Water Policies and Programs.		2/1/89				WQB
G. Assess the comprehensive nature and effectiveness of the Montana Ground Water Pollution Control System.	12/1/88					EPA

WQMIS STATE WORK PROGRAM BUDGET MATRIX

MONTANA

STATE FY 89

This will be incorporated in final

State/EPA Agreement

Underground Injection Control

The purpose of the Underground Injection Control (UIC) program is to prevent the contamination of underground sources of drinking water. While the intent of the Safe Drinking Water Act is to encourage states to assume primary enforcement authority for the UIC program, in those cases where the state is unable to meet the program requirements or where a state does not apply for the program, the Administrator of EPA must prescribe a program for that state. This was done by EPA, and became effective in June 1984.

In April, 1987 legislation was passed and signed by the Governor authorizing the Montana Board of Oil and Gas Conservation to seek primary enforcement responsibility for Class II wells (defined below). It is anticipated that the Board will submit a primary application sometime late in FY 88 or early FY 89. In the meantime, EPA will continue to operate the UIC program in Montana.

EPA is implementing the UIC program through the Denver Regional Office and the Montana Office. The Regional Office is responsible for program direction, administrative and technical functions related to permit issuance and compliance monitoring. The Montana Office has the lead responsibility for field activities, compliance inspections and emergency response. The permit work load is shared between the two offices, with the final permits and all administrative activities associated with the permitting activities being the responsibility of the Regional Office.

Injection activities have been divided into five classes. In general, the classification of wells is as follows:

Class I - Wells used by municipal and industrial dischargers to dispose of waste materials below the lowermost formation containing an underground source of drinking water.

Class II - Wells which inject fluids associated with the recovery of oil and natural gas. This includes brine waste injection, enhanced recovery of oil or natural gas, and storage of hydrocarbons.

Class III - Wells used for the extraction of minerals.

Class IV - Wells used to dispose of hazardous waste materials into or above a formation containing an underground source of drinking water.

Class V - Wells not included in Classes I - IV including air conditioning return flow wells; cesspools, drainage wells used for storm runoff, etc.

To date, no Class I, III or IV injection wells have been identified in Montana. Only Class II wells are presently being permitted.

Under the regulations, all new injection wells must have a permit from EPA before they can begin injection. "New" is defined as any injection well that goes into operation after June 1984. In addition, all salt water disposal wells that were in existence as of June, 1984 must also be permitted before June 1988. The permitting of these wells is being done in a phased manner, with about 25 percent of the existing wells proposed to be

permitted each year. The existing enhanced recovery wells are not required to obtain a permit, but are still required to meet all requirements of the regulations.

All injection wells must meet certain construction requirements, demonstrate mechanical integrity (have no significant leak in the casing, tubing or packer and have no significant fluid movement into an underground source of drinking water through vertical channels adjacent to the injection well bore), meet certain operating, monitoring and reporting requirements, and have an approved plugging and abandonment plan. In addition, the company operating the injection well must meet the financial responsibility requirements necessary to plug and abandon the well.

ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	RESOURCES WORKYEARS EPA	RESOURCES DOLLARS	RESPONSIBLE AGENCY
UNDERGROUND INJECTION CONTROL (UIC)						
I. Permit Issuance						
Review applications for and issue permits for Class II wells and/or fields.	46			4.65		EPA
II. Surveillance and Investigation				1.50		
A. Assure compliance with permit and other regulatory requirements through compliance inspections.	600					EPA, MO
B. Notify owner/operator and require mechanical integrity testing.	75					EPA, MO
C. Witness required mechanical integrity testing.	40					EPA, MO
D. Review operator supplied compliance reports.	850					EPA, RO
III. File Reviews						
Review files for rule authorized wells.	50			.05		EPA, RO
IV. Administration						
Do annual report as required by 40 CFR 144.8(b).		3/89		.80		
V. Delegation						
Review primacy application from Oil & Gas Conservation Commission.		1/89		.20		
TOTAL				7.20	123,900	

NOTE: All milestones are estimates. They will be modified after September 30, 1987 to better reflect total EPA commitments.

Drinking Water

The first Montana Public Water Supply (PWS) law was enacted in 1967. This law was revised in 1977, and again in 1979, to enable Montana to receive and retain delegation for the administration of the "Federal Safe Drinking Water Act" (PL 93-523). Prior to receiving primacy under the Safe Drinking Water Act, Montana's program regulated about 250 community water systems. The present program regulates all systems which have at least 10 service connections or serve 25 people per day for 60 or more days per year. That inventory of public water systems varies in number but currently includes 725 community systems and 1,604 noncommunity systems about 285 of which appear to be of the newly defined "non-transient" variety.

From a quality standpoint, the state's drinking water is considered generally good in western Montana. Many supplies in eastern Montana, particularly those using groundwater, would be considered poor. The problems with these supplies are generally aesthetic, and include high Total Dissolved Solids (TDS), sulfates, sodium, iron and manganese. Some of the surface water supplies in the western part of the state still use the surface sources without filtration and occasionally have turbidity problems, but several new plants have been constructed in the past few years with technologies that eliminate the major turbidity problems. With the finalization of EPA's Surface Water Treatment Rule it is expected that all of Montana's unfiltered surface water systems will have to provide additional treatment. In most cases that will be filtration.

Montana has about 10 community supplies that exceed 4.0 mg/l in fluoride. These systems are required to give public notice and provide bottled water for those who prefer it. Now that the EPA maximum contaminant limit (MCL) for fluoride has been established, the department plans to take steps to enforce against fluoride violations on a priority basis. The department has also initiated legal action against one supply which exceeds the MCL for nitrate. That supply is now under a court ordered compliance schedule to provide an alternate source of water for its users. Most of the needed funding for this project has been obtained, a new deep, low nitrate well has been constructed and completion of the project, including blending of two waters, is expected within the next 6 months.

Unfiltered surface water has been one of the state's major concerns for the past several years. Outbreaks of giardiasis have been experienced here as in other states, and the public water supply program is taking action to see that the risk from Giardia is minimized. The Public Water Supply (PWS) program has hired a person specializing in the area of Giardia filtration and control, and is having that person investigate surface sources to determine where the Giardia threat is present. Each surface system is looked at on an individual basis and recommendations are made to assure safe water is delivered to the consumers. When this system is unable to assure removal and/or inactivation of Giardia cysts, boil orders or health advisories are issued by the department. The work is done on supplies that are filtered as well as unfiltered and infiltration galleries. This procedure, known as the microscopic particulate evaluation (MPE), has been a valuable tool for evaluating filter plant performance.

The program is beginning a new method of evaluating a filtration

plants' performance, which is patterned after the wastewater industry's Comprehensive Performance Evaluations (CPE). CPEs are planned for several of Montana's surface water treatment plants during the next year.

The majority of the state's community public water supplies are regularly monitoring for bacteriological quality. Noncommunity supplies are now monitoring at a greater than 80% level.

The system of IBM personal computers (PCs) is now on line and is becoming increasingly more useful. The program is able to automatically determine compliance with the bacteriological monitoring requirements and send out reminder letters to those systems that have failed to sample. This procedure has resulted in a marked improvement in monitoring compliance levels.

The MCL for coliform bacteria is occasionally exceeded, and when it is, the program's engineers work with the PWS personnel to identify the problem and solve it. Several groundwater supplies with bacterial problems have had to out in full-time disinfection over the past few years.

Priority objectives for FY 1989 include:

- Provide follow-up investigations of all unfiltered surface water sources to determine whether or not they will qualify for exceptions to the filtration requirements of the 1989 SDWA Amendments.
- Complete CPEs at several filtration plants.
- Continue MPEs at filtration plants and coordinate them with the CPEs.
- Improve compliance of public water supplies for all of the requirements of the Safe Drinking Water Act.
- Monitor and enforce the public notice requirements.
- Improve the bacteriological quality of those PWS's that have coliform problems or high standard plate counts.
- Establish compliance schedules for those systems that need improvements to meet MCL requirements.
- Conduct field investigations at 70-80% of the state's PWS's.
- Provide training and certification of water and wastewater operators of community PWSs.
- Review plans and specifications for construction on public water and sewer systems.
- Improve plan review procedures and policies and rewrite regulations as needed.
- Provide certification for laboratories.
- Investigate all PWS's that could be at risk for Giardia, do evaluations and make recommendations to see that the risk is minimized.
- Optimize the use of the PC Network.
- Provide additional programming on the WQB's Revelation data base to handle the new MCLs.
- Prepare to make the necessary rule changes to maintain primacy.
- Begin planning for the Wellhead Protection Program.
- Collect samples and provide analysis for organic contaminants at community and non-transient non-community systems.

ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	RESOURCES WORKYEARS EPA	RESOURCES DOLLARS	RESPONSIBLE AGENCY
DRINKING WATER PROGRAM - PUBLIC WATER SYSTEMS						
I. Administer program according to the Federal SDWA, State statutes and regulations, and cooperative agreement regulations and conditions.						
A. Provide quarterly reports of violation data to EPA within 60 days of the end of each calendar quarter in the format requested by EPA.	2	4				WQB
B. Participate in program evaluation/oversight performed by EPA.		1				WQB
C. Administer local health department contracts for inspections of public water supplies.		17				WQB
D. Identify all "surface water supplies" and evaluate their options under the new filtration regulations.	12-31-88					WQB
E. Continue to identify community water systems with potentially corrosive water and provide technical assistance as resources allow.	Ongoing					WQB
F. Work with Plumbing Board and Department of Commerce Building Codes Division to continue enforcement of the lead ban.	Ongoing					WQB
G. Prepare for adoption of VOC, filtration, lead and coliform regulations.		1-1-89				WQB
H. Evaluate the EPA Primacy Workgroup report and develop long range plans for state regulatory and statutory development.		1-1-89				WQB
I. Evaluate the PWS's lead public notices and follow up where necessary.	10-1-88					WQB

WATER QUALITY MEDIA WORK PLAN

ACTIVITY/OUTPUT	MILESTONE		RESOURCES			RESPONSIBLE AGENCY
	THROUGH MIDYEAR	THROUGH END OF YEAR	WORKYEARS STATE	WORKYEARS EPA	DOLLARS	
II. PWS surveillance and technical assistance.						
A. Conduct inspections of PWS's & prepare written reports.	Ongoing					WQB
1. WQB staff		90				WQB
2. Contracted sanitarians		600				WQB
3. Contracted individual(s)		300				WQB
B. Investigate suspected waterborne disease outbreaks.		By Incident				WQB
C. Investigate suspected incidences of sources of drinking water contamination.		By incident				WQB
III. Review plans and specifications for all new and/or modified PWS's.		120				WQB
IV. Train and certify water system personnel.						WQB
One-week course		1				
One-day seminars		5				
Certification tests given		1				
Onsite training for plant operators						
V. Provide appropriate compliance activities and enforcement action in accordance with State/EPA Enforcement Agreement.	Ongoing					WQB
VI. Maintain records essential for PWS program including inventory of all PWS's.	Ongoing					WQB
VII. Provide laboratory capability to conduct analysis necessary for the program.	Ongoing					WQB

WATER QUALITY MEDIA WORK PLAN

ACTIVITY/OUTPUT	MILESTONE		RESOURCES			RESPONSIBLE AGENCY
	THROUGH MIDYEAR	THROUGH END OF YEAR	WORKYEARS STATE	WORKYEARS EPA	DOLLARS	
VIII. Recertify private laboratories who do drinking water analyses, as necessary.	Ongoing					WQB
IX. Notify PWS's of VOC responsibilities, and if funds are available, perform VOC and unregulated contaminant monitoring.	10-1-88					WQB
X. Conduct Comprehensive Performance Evaluations on surface water supplies.		3				WQB
TOTAL						

Construction Grants

A federal grant program was initiated in 1956 to assist municipalities in the construction of sewage treatment facilities. Originally, the state assisted the EPA and predecessor agencies in administration of this program by establishing needs and priorities, reviewing project applications, and preliminary and final plans. In recent years, administration of the program has been delegated to the state with EPA assuming an oversight role.

An annual priority list is developed by the Water Quality Bureau to rank projects and determine which communities will receive grant assistance. The priority system considers impairment of classified water uses from existing municipal pollutant discharges, as well as the extent of surface or groundwater degradation and associated public health concerns.

A shift in responsibility to states and municipalities for financing, building and replacing sewage treatment facilities began with the 1972 Amendment to the Clean Water Act. The federal role was further reduced by the 1981 Amendments which reduced the federal grant share, cut the federal annual authorization in half and restricted eligible funding categories.

The Water Quality Act of 1987 completes the transition to full state and local responsibility. The grants program will continue through fiscal year 1990 with a declining grant appropriation beginning in 1987. The 1987 Amendments allow for creation of a state revolving loan fund capitalized with federal grants to provide loans and other financial assistance to municipalities for construction of wastewater treatment facilities. These capitalization grants are authorized through 1994. The State of Montana will establish a revolving loan program with the intention of meeting the transition schedule requiring mandatory appropriations to the fund in fiscal year 1989. Enabling legislation will be introduced in 1989 to implement the loan program.

The other changes to the Construction Grants Program implemented by the 1987 Amendments are relatively minor. Design/build projects are now allowed in the grant program whereby a grantee can contract for design and construction services with one party. The state will maintain efforts towards completing on-going grant projects and prioritize those projects subject to EPA's National Municipal Policy. Emphasis will be placed on sound construction management of projects and achievement of project performance standards. Concepts developed through the 104 (g)(1) grant work will be utilized to evaluate treatment facilities' ability to maintain compliance.

The state, in conjunction with Northern Montana College, will apply for the 104(b)(1) training grant in 1989. Regional training centers using existing training programs as well as specialized instructors will be supported with the program grant.

Montana will assist EPA in meeting EPA's water accountability system to the extent resources allow. Consistent funding is critical in meeting work plan goals.

Contact Persons:

Water Quality Bureau, (406) xxx-xxxx
Steve Pilcher, Chief
Loren Bahls, Water Quality Management Section
Jan Fraser, Safe Drinking Water Section
Scott Anderson, Construction Grants Section
Fred Shewman, Permits and Enforcement Section
Joe Hargestad, Special Studies and Support Section

EPA Montana Office (406) xxx-xxxx
Dick Montgomery, Chief, Water Programs

ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	RESOURCES WORKYEARS EPA	RESOURCES DOLLARS	RESPONSIBLE AGENCY
CONSTRUCTION GRANTS						
I Participate in Regional Construction Grants Oversight / Office of Water Accountability System.			[illegible]	[illegible]		WQB, EPA
A Montana will submit detailed workplan containing core elements of the program including quantitative estimates of performance per Regional Construction Grants Oversight System and EPA's specific guidance by October 15, 1988. A draft workplan will be submitted by July 15, 1988. EPA will provide specific guidance to the state on the workplan by June 1, 1988. Upon acceptance by EPA it will become part of the SEA						WQB
B Montana will carry out the Construction Grants Program in accordance with the 205(g) Delegation Agreement and the annual workplan. The Region will conduct all nondelegated functions consistent with these agreements.						WQB, EPA
C Implement changes resulting from the Water Quality Act of 1987 including modifying the Delegation Agreement in a timely manner						WQB
D Participate in the Needs Survey with emphasis on the water quality component						WQB
E Montana will develop and implement a state revolving loan program						WQB
F Implement the sludge management program regulations.						WQB
G Ensure individual project decisions are consistent with sound sludge management practices.						WQB
H Montana will work towards completion of construction grants projects in accordance with EPA's National Municipal Policy						WQB

WATER QUALITY MEDIA WORK PLAN

ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	RESOURCES WORKYEARS EPA	RESOURCES DOLLARS	RESPONSIBLE AGENCY
I. Montana will continue to work with EPA in implementing the Operations Management Evaluation Program.						WQB, EPA
J. Montana will implement a small community outreach program.						WQB, EPA
K. The State will prepare a multi-year Program Management Strategy for management and completion of all construction grant projects.						WQB

The Big Sky Country is truly what its name implies, yet there are places where the quality of air is a fragile resource. The plains east of the Rocky Mountains provide few obstructions to the sea of air that flows across the land, but in western, southern and central Montana, where various mountain ranges form valleys, air sometimes is trapped in layered inversions, causing degradation.

In addition to inversions and natural sources of contamination, man also plays a part in altering air quality. In urban areas throughout the state, such things as street dust, smoke from wood stoves and industrial emissions contribute to lowering air quality and visibility. In rural areas the largest contributors to air quality degradation are unpaved roads and mining operations.

Montana's air quality program can be divided into four parts: permits, inspections and enforcement, implementation plans and air quality surveillance. The combination of these activities provides for a coordinated and comprehensive program of monitoring, problem prevention, problem correction and enforcement.

In order to prevent future air quality problems, Montana relies primarily on its permitting program. This program requires that all significant sources of air pollution must obtain a permit prior to construction of the facility. Montana requires a permit for any source that has the potential to emit more than 25 tons per year of any air pollutant (except lead - 5 tons/year). To augment this program and to provide national consistency, Montana has also adopted the federally mandated Prevention of Significant Deterioration (PSD) rules. This program has EPA approval and operates in lieu of EPA. More than 100 permits were processed by the Air Quality Bureau (AQB) last year which assured new sources will comply with various plans and standards.

One of the most difficult areas in air pollution control is to bring areas which exceed ambient air quality standards into compliance. This is usually accomplished by the development of plans for each area not in compliance with the standard. The sum of all of these plans, permit rules, emission standards, etc. is known as the State Implementation Plan (SIP).

Montana is currently revising its SIP to incorporate the federal ten micron (PM-10) particulate standards. Revisions to the statewide plan and air quality rules will be submitted in FY 1988; an area-specific SIP for each Group I area will be developed over the next several years. Since Montana has 11% of the nation's PM-10 Group I areas, the SIP development process will require a significant commitment of resources. Additionally, we will be required to revise the Missoula Carbon Monoxide SIP and the East Helena Lead SIP during FY 1989.

Ambient air quality monitoring is also an important part of the air quality program. Montana operates more than 50 samplers throughout the state in order to adequately assess the air quality of the state. However, the federal base grant has been decreased and a reduction in the ambient air

quality network has occurred. For example, much of the total suspended particulate monitoring network has been removed to transfer monitoring resources to address PM-10. Significant efforts will continue to be focused on meeting PM-10 Group I and Group II area monitoring requirements; however, because of resource limitations, all monitoring objectives will not be achieved. Montana's monitoring program requires the collection of high quality data and it is committed to using the EPA quality assurance criteria as a minimum. In some instances, internal quality assurance requirements exceed those of the federal government. The monitoring network typically includes 17,000 laboratory analyses, 4,000 samples, and 180,000 hourly field values per year.

As a means of determining compliance with emission standards by industrial facilities, the AQB conducts a regularly scheduled inspection program. If violations are found, then further enforcement action may follow. The options for enforcement include: requests for voluntary compliance, office conferences, hearings before the Board of Health and Environmental Sciences, Notice of Violation and Order to Take Corrective Action, and civil or criminal penalties. The follow-up enforcement for each violation is case-by-case, but follows the State/EPA Enforcement Agreement. This agreement is renegotiated periodically and closely follows national guidance. In FY 1987, the AQB conducted more than 130 field surveillance actions and issued several Notices of Violation and civil penalties.

Because of resource limitations, the air toxics program will receive a minimum level of support in 1989; resources normally devoted to air toxics will be focused on PM-10 SIP development. Screening studies for ambient air toxics in Billings and Missoula will be completed based on the special funding received in FY 1988.

In summary, Montana's air program will focus heavily on implementation of the PM-10 standards during FY 1989. Certain other programs will receive a lower priority to support PM-10 work; however, core programs (i.e., permitting, inspections and enforcement, monitoring) will be maintained to assure a viable air program. As shown in the Air Quality Media Work Plan, Montana's program lacks the resources to fully implement all objectives; shortfalls and delays will occur unless additional resources are provided.

Contact Persons:

Air Quality Bureau, DHES (444-3454)
Jeff Chaffee, Chief

EPA Montana Office (449-5486)
Dick Montgomery, Chief, Air Programs
Jay Sinnott, Air Programs Manager

AIR QUALITY MEDIA WORK PLAN

ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	WORKYEARS EPA	DOLLARS STATE	DOLLARS EPA	RESPONSIBLE AGENCY
AIR ACTIVITIES							
I. Point Source Compliance			3.6(4.9) +0.5*	.90			AQB
A. Inspections and Emission Inventory							
1. State shall inspect each Class A-1 source and approximately 1/2 of Class A-2 and Class B NSPS sources each year.	40	80	1.1(1.1)				AQB
Portable asphalt plants and crushers shall be inspected on a complaint basis or during routine travel. Each asphalt plant is required to be source tested once each four years.	6	12					
In addition to State inspections, the EPA Montana Office shall perform facility overview inspections of Class A sources.	3	6					EPA
Develop an inspection scheduling procedure consistent with EPA's new compliance monitoring strategy.							AQB, EPA
a. Propose strategy		1/89					
b. Finalize strategy		4/89					

ACTIVITY/OUTPUT	MILESTONE		RESOURCES				RESPONSIBLE AGENCY
	THROUGH MIDYEAR	THROUGH END OF YEAR	WORKYEARS STATE	WORKYEARS EPA	DOLLARS STATE	DOLLARS EPA	
2. EPA shall inspect all major, regulated sources located on federally-recognized tribal lands.	1	3					EPA
3. Inspect asbestos demolition and renovation projects. Inspect one project by each abatement contractor which is active in Montana on a regular basis (in varied regions of the State). Emphasis will be given to school abatement projects.	5	10	0.2(1.0)				AQB
4. Submit a summary of asbestos notifications and enforcement activity.	Quarterly						AQB
5. Provide copies to EPA of inspection reports for all Class A SIP, NSPS, and NESHAP sources within 10 days in accordance with the Enforcement Agreement.	40	80					AQB
6. Update the emission inventory for Class A-1 and A-2 stationary sources. Provide NEDS updates to the regional office through the Emission Inventory System (EIS). Place emphasis upon sources in Group I and Group II PM10 areas.	40	80	1.3(1.3)				AQB
7. Provide a list of portable sources permitted in the previous Federal fiscal year.	10/88						AQB
8. Review classification of stationary and portable sources.		1/89					AQB

ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	WORKYEARS EPA	DOLLARS STATE	DOLLARS EPA	RESPONSIBLE AGENCY
B. Enforcement							
1. Take formal enforcement actions against A1 and A2 violators within 60-days following documentation of a violation in accordance with the enforcement agreement appended to this document.		Bi-monthly review of Actions	1.5(2.0)				AQB
EPA may take a formal enforcement action as specified in the enforcement agreement.							EPA
2. Utilize continuous emission monitors (CEMs) for enforcement purposes where not excluded from doing so by regulation or formal agreement.							AQB
3. Modify or reaffirm the Enforcement Agreement prior to the publication of FY 90's SEA.							AQB, EPA
II. New Source Review							
A. Process new source permits as required. Submit the preliminary determination to EPA at the start of the comment period (including the public notice and technical review) for (1) PSD permits; (2) sources avoiding PSD review by permit limitation (synthetic minors); (3) sources which may impact an area not officially in attainment of NAAQS; and (4) major (A1) sources. Submit final determinations to EPA within two weeks of issuance.	50	100	1.7(2.5) +0.5*	.40			AQB

AIR QUALITY MEDIA WORK PLAN

ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	RESOURCES WORKYEARS EPA	RESOURCES DOLLARS STATE	RESOURCES DOLLARS EPA	RESPONSIBLE AGENCY
Additional emphasis will be placed upon improving the quality of PSD applications. PSD permit instructions will be developed which require complete applications, including "topdown" BACT determinations, prior to positive determinations of completeness.		1/89					AQB, EPA
III. SIP Activities			4.3(6.3)	1.30			
A. Prepare an annual State Implementation Plan (SIP) progress report.		2/89					AQB
B. Adopt new regulations and revise existing regulations as required to maintain the delegation of federal programs.			0.3(0.3)				
1. NSPS (New Source Performance Standards).	Submittal	7/89					AQB
2. NESHAPs (National Emission Standards for Hazardous Air Pollutants).	Submittal	7/89					AQB
3. Change the PSD rules to address mining fugitive emissions.	If required						AQB
4. Revise the SIP (including air quality rules) in response to requirements accompanying PM10 NAAQS.#							AQB, EPA
a. Committal SIP submitted	4/88						
b. EPA action	9/88						

ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	RESOURCES WORKYEARS EPA	RESOURCES DOLLARS STATE	RESOURCES DOLLARS EPA	RESPONSIBLE AGENCY
C. Ambient Air Quality Standard Attainment Planning			3.4(5.4)				
1. Great Falls CO							
a. SIP call	7/88						EPA
b. SIP submittal		6/90					AQB
2. Missoula CO							
a. SIP call	7/88						EPA
b. SIP submittal		6/90					AQB
3. East Helena Pb							
a. SIP call	6/88						EPA
b. SIP submittal		3/89					AQB
4. Columbia Falls PM10# (Group II w/violation)	See Montana SIP Development Plan						AQB
5. Butte PM10# (Group I)	See Montana SIP Development Plan						AQB
6. Kalispell PM10# (Group I)	See Montana SIP Development Plan						AQB
7. Libby PM10# (Group I)	See Montana SIP Development Plan						AQB
8. Missoula PM10# (Group I)	See Montana SIP Development Plan						AQB
9. Lame Deer PM10** (Tribal Group I)	See Tribal Implementation Plan (TIP) Development Plan						EPA

ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	WORKYEARS EPA	DOLLARS STATE	DOLLARS EPA	RESPONSIBLE AGENCY
10. Polson PM10** (Tribal Group I)		See Tribal Implementation Plan (TIP) Development Plan					EPA
11. Ronan PM10** (Tribal Group I)		See Tribal Implementation Plan (TIP) Development Plan					EPA
12. Anaconda PM10# (Group II)		Committal SIP Submitted 4/88					AQB
13. Helena PM10# (Group II)		Committal SIP Submitted 4/88					AQB
14. East Helena PM10# (Group II)		Committal SIP Submitted 4/88					AQB
15. Thompson Falls PM10# (Group II w/exceedence)		Committal SIP Submitted 4/88					AQB
16. Hays PM10** (Tribal Group II)		Committal TIP Submittal 9/88					EPA
D. Tracking Approved Attainment Plans			03.(0.3)				AQB
1. East Helena Pb		Ongoing					
2. Billings CO		Ongoing					
3. Great Falls CO		Ongoing					
4. Missoula CO		Ongoing					

ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	WORKYEARS EPA	DOLLARS STATE	DOLLARS EPA	RESPONSIBLE AGENCY
5. Laurel SO2	Ongoing						
6. East Helena SO2	Ongoing						
7. Maintain TSP Plans	Ongoing						
E. Area Redesignations			0.3(0.3)				
1. Redesignations to attainment or unclassified	As appropriate						AQB, EPA
2. Redesignations to nonattainment	As appropriate						AQB, EPA
IV. Air Toxics			0.2(1.8)	0.1			AQB
A. Implement the air toxics multi-year development plan (MYDP)	As resources allow		0.1(1.5)				
1. Submit revised MYDP		3/89					
2. Support the National Air Toxics Clearing House.							
3. Develop toxics control regulations for high-risk sources.							
4. Participate in intergovernmental emergency prevention and response efforts.							

AIR QUALITY MEDIA WORK PLAN

ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	RESOURCES WORKYEARS EPA	RESOURCES DOLLARS STATE	RESOURCES DOLLARS EPA	RESPONSIBLE AGENCY
5. Review permitting regulations for possible inclusion of acute release provisions.							
6. Participate in hazardous waste site programs where air quality issues exist.							
B. Carry out sampling studies in Billings and Missoula. Non-recurrent EPA funding of $14,790.			0.1(0.3)				AQB
1. Complete sampling		1/89					
2. Submit final report		6/89					
V. Ambient Monitoring			6.2(7.2)	0.6			
A. Ambient monitoring program activities.			3.4(3.9)				
1. Complete an annual network review.	CY87 7/88	CY88 7/89					AQB
2. Complete the annual Air Quality Data Summary report, including a summary of air quality standard exceedences for the year.	CY87 9/88						AQB
3. Convert the data reporting system to EPA's new Aerometric Information Retrieval System (AIRS).	As resources allow		0				AQB, EPA

ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	RESOURCES WORKYEARS EPA	RESOURCES DOLLARS STATE	RESOURCES DOLLARS EPA	RESPONSIBLE AGENCY
4. Submit an updated monitoring equipment needs priority list (ambient or emission related monitoring).		9/89					AQB
5. Inform EPA 30 days prior to making any change in the SLAMS network, except where unforeseen circumstances require an immediate change. EPA must respond within 30 days, or prior to the scheduled move.	As required						AQB, EPA
B. Quality assurance activities.			1.0(1.0)				
1. Complete the annual State and Local Agencies Monitoring Systems (SLAMS) report.		6/89					AQB
2. Perform a system audit of the State air monitoring program.		6/89					EPA
C. Continue the implementation of a PM-10 monitoring network consistent with EPA regulations.							
1. Complete the network in Group I areas and Group II areas in which exceedences have been measured.	As required in committal SIP						AQB, EPA
2. Establish and maintain networks in Group II areas.							AQB, EPA
3. Develop and maintain a strategy for monitoring in Group III areas as resources allow. The strategy will concentrate on areas of significant public concern.	9/88						AQB

ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	WORKYEARS EPA	DOLLARS STATE	DOLLARS EPA	RESPONSIBLE AGENCY
D. Billings SO_2 special monitoring study (State and Industry cooperative study). Non-recurrent funding of approximately $37,000 for FY 88.					Non-recurrent funding		AQB
VI. Performance Evaluation			0.7(0.9)	0.20			
A. Complete FY 88 National Air Audit System (NAAS) review.	10/88						EPA
B. Resolve deficiencies revealed in FY 88 report.	As required						AQB, EPA
C. Resolve deficiencies revealed in FY 86 NAAS report.							AQB, EPA
1. Review regulations, procedures and programs of local air pollution agencies to determine consistency with State and Federal requirements. Take action to correct dificiencies.							
a. Submit an annual progress report, including an outline delineating State/Local agency responsibilities.		1/89					AQB
VII. Smoke Management			0.6(0.6)	0.05			AQB
A. Continue the smoke management program with an emphasis on PM10 SIP related enhancements.	Ongoing						
1. Continue to manage major forestry slash burning impacts (smoke management group members).							

ACTIVITY/OUTPUT	MILESTONE		RESOURCES				RESPONSIBLE AGENCY
	THROUGH MIDYEAR	THROUGH END OF YEAR	WORKYEARS STATE	WORKYEARS EPA	DOLLARS STATE	DOLLARS EPA	
2. Establish additional restrictions for burning in or near PM10 Group I areas.							
3. Continue to expand the program to involve non-member burners (wood products, agriculture and individuals) and additional local agencies. Undertake additional efforts to inform the public of the smoke management program and its importance.							
4. Submit the annual Smoke Management report, expanded to discuss non-member related smoke management activities.		1/89					AQB
VIII. Miscellaneous Activities.			0.5(0.5)	0.25			
A. Participate in STAPPA, the STAR acid deposition project and the proposed Western States Air Resources Council (WESTAR).	Ongoing						AQB
B. Participate in the development of a programmatic Environmental Impact Statement, assessing the impacts of petroleum development in Montana, as mandated by the Governor's office.	As required						AQB
C. Complete the Montana portion of the interagency (U.S. Bureau of Land Management, MDHES, North Dakota Department of Health) Williston Basin Petroleum Development Impact study.	As required						AQB

AIR QUALITY MEDIA WORK PLAN

ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	RESOURCES WORKYEARS EPA	RESOURCES DOLLARS STATE	RESOURCES DOLLARS EPA	RESPONSIBLE AGENCY
IX. Training			0.2(0.2)	0.20			
A. Provide training to employees in order that they may most effectively carry out air pollution control programs.	As available						AQB, EPA
1. Annual Region VIII ambient air monitoring workshop.							
2. AIRS data input training in AQB offices.							
3. Smoke school operator training.							
4. Practices and procedures in asbestos control.							
5. Air Toxics workshop.							
6. New source review workshop.							
X. Local Air Pollution Agency Grants			0	0			AQB
		TOTAL	18.0(24.9) +1.0*	4.0			
XI. Indian Technical Assistance			1.0			55,000	
A. Provide technical assistance to tribal air pollution programs.							
1. Support ambient monitoring efforts.							
2. Support the development of comprehensive air pollution control programs.							

ACTIVITY/OUTPUT	MILESTONE		RESOURCES				RESPONSIBLE AGENCY
	THROUGH MIDYEAR	THROUGH END OF YEAR	WORKYEARS STATE	WORKYEARS EPA	DOLLARS STATE	DOLLARS EPA	
3. Assist the tribes with PM10 control plan development.							
XII. Workplan Awareness							
AQB supervisory personnel must read this workplan at least quarterly.							

* Montana Dept. of State Lands provides one employee who conducts mine inspections and provides permit writing services.

\# As per Montana PM10 State Implementation Plan (SIP) development plan.

** As per Montana PM10 Tribal Implementation Plan (TIP) development plan.

Note: State work-years are totaled for each Roman numeral heading; the number represents the available work-years; the number in parentheses represents the work-years needed to carry out the required activities; activities for which zero resources are allocated are not budgeted for in this fiscal year.

Solid and Hazardous Waste Management

The disposal of solid waste has become a major, complex problem in Montana. Due to its nature, it also relates to air, water and land pollution. In the future, the solid waste problem will become more expensive and complicated.

Our society consumes enormous quantities of material and energy which, in turn, generates an exceedingly large volume of waste. Approximately 600,000 tons of municipal solid wastes are being generated every year in Montana. Given the well-established waste generation rates, by 1990 nearly 870,000 tons of waste will be generated per year. Presently, waste is being disposed of in more than 230 identified municipal disposal facilities and numerous undisclosed dump sites.

State records also indicate that approximately 10,000 tons of potentially hazardous wastes are generated each year in Montana. This volume of hazardous waste includes pesticides, heavy metals and other industrial chemical wastes. A large number of "empty" pesticide and other toxic chemical containers of all sizes are also discarded annually.

The state now possesses sufficient regulatory authority to control solid waste disposal. As required by the 1977 "Montana Solid Waste Management Act," the SHWB currently is licensing all solid waste management systems in the state. This licensing procedure assures that all such systems will provide a basic public service and not degrade the environment. To date, a total of 221 waste management systems have been licensed by the bureau.

Montana, through the SHWB, has received "final" authorization to manage a state hazardous waste management program. However, because of major changes in RCRA, the SHWB is initiating major program development activities to insure that the state program remains equivalent to its federal counterpart. The following number of businesses are presently regulated under the hazardous waste program:

Large Generators	60
Small Quantity Generators	56
Treatment, Storage and Disposal Facilities	10
Transporters	40

The U.S. Congress passed legislation to reduce the weight exemption limit for hazardous wastes from 1000 kilograms to 100 kilograms. Under the new regulations, the SHWB estimates that the number of regulated generators may increase ten-fold from the current status to approximately 700 to 1000 new generators. The SHWB currently is conducting a detailed statewide inventory to better determine the scope of the regulated community.

Other than the few generators with on-site treatment, storage and disposal facilities, hazardous waste generators in Montana are dependent on out-of-state disposal facilities. Distances to out-of-state facilities are substantial for Montana operators, and this is viewed as burdensome, especially from the standpoint of transportation costs. Also, disposal fees charged by the out-of-state facilities routinely increase. These costs are especially taxing to small generators. It is also a possibility,

that these facilities may terminate their business, either permanently or for indefinite periods of time.

A fee system has been established to assist in the management of a state hazardous waste program. Under the system, hazardous waste generators and treatment, storage and disposal facilities are required to pay a fee to the state to help defray the costs of managing the state hazardous waste program.

During FY 1989 a priority will be the continued implementation and maintenance of a fully authorized state hazardous waste regulatory program. Such status will encompass complete state authority over hazardous waste generators, transporters and treatment, storage and disposal facilities. This authority will provide state primacy in permitting, monitoring and enforcement activities. The program will include continuing the notification procedures by regulated communities of hazardous waste activities.

The DHES will continue to provide an emergency response system, which includes a response plan and emergency response team. This team is comprised of state agencies representing a broad spectrum of disciplines. Such a structure assures that state government can provide technical advice and direct assistance to a variety of emergency situations.

As the state's hazardous waste program matures, measures will be taken to assure that an adequate work force is available. Efforts will be made, as needed, to supplement the current hazardous waste staff. In addition, the ongoing training of current staff will be maintained.

A concerted effort will be made to provide for public participation. Current state laws and regulations provide formal provisions for insuring public review and comment in the issuance of all permits. The level of public participation undertaken in other activities will depend on the degree of interest from affected or interested persons. Public participation will rely heavily on the mass media, direct mailings, public meetings and public hearings.

Under licensing procedures required by state law, the SHWB will continue to maintain an inspection program of all solid waste management facilities. The bureau will initiate enforcement action on facilities identified as open dumps, and for which no effort has been taken to close or upgrade the facilities.

The SHWB will continue to maintain a program to provide technical and consultant assistance to local governments for developing recycling and resource recovery activities. To the extent possible, the SHWB will continue to assist in the proper disposal of small quantity hazardous wastes.

Removals, remedial investigations, feasibilities studies, and remedial actions continue on most of the nine uncontrolled hazardous waste sites currently on the National Priority List (NPL). DHES has entered into six cooperative agreements with the EPA to implement the CERCLA process and meet the states responsibilities under the law. The CORE Cooperative Agreement provides support from the fund for further development and implementation of superfund in Montana. The Multi-site Cooperative Agreement provides funds

for DHES management assistance activities at EPA lead sites and an accelerated pre-remedial investigation program. Currently, DHES has lead management responsibility for the original portion of the Silver Bow Creek Site, the Milltown Reservoir Sediments site and Montana Pole site. Lead work efforts and commitments may be found in the cooperative agreements for this site. DHES also participates in the coordination of the Clark Fork River system sites and development of a comprehensive data system, via the Clark Fork Cooperative Agreement. Additionally, DHES is negotiating with EPA to assume an enforcement lead at the Idaho Pole site. As funding becomes available for Mouat Industries site or other new sites, DHES will negotiate additional cooperative agreements for lead or management assistance at these sites.

In addition to the participation at established NPL sites, the DHES has an important role in the identification and evaluation of sites for inclusion on the NPL. Under provisions of the Multi-Site Cooperative Agreement, the DHES conducts preliminary assessments (PAs) and where necessary, site investigations (SI) of potential, uncontrolled waste sites identified in EPA's (CERCLA) information system (CERCLIS). At present, Montana has 143 sites on CERCLIS. To date, 136 PAs and 42 SIs have been completed. In the course of conducting project activities, efforts will be made to identify uncontrolled hazardous waste sites not listed on CERCLIS.

The DHES is the designated agency for development and coordination of the underground storage tank program. In FY 1989, the four major objectives of the program are:

1. State Program Development
2. Program Approval Application
3. Outreach Efforts to Promote Compliance
4. Compliance Monitoring and Enforcement

In anticipation of EPA's final rules for the regulation of underground storage tanks, the department will endeavor to implement the underground storage tank (UST) regulations to the extent possible. Authority to implement the federal UST regulations prior to approval of state regulations, may be obtained by way of formal agreement between the EPA and the department.

In FY 1988, the DHES obtained a Leaking Underground Storage Tank (LUST) Cooperative Agreement from EPA. Corrective actions were undertaken at the Livingston site. In FY 1989, the department will continue to develop the LUST program capabilities. The DHES will use Federal Trust Fund monies for enforcement activities, corrective actions, site response activities, and administration and management activities.

Contact Persons:

Solid and Hazardous Waste Bureau, DHES (444-3821)
Duane Robertson, Chief
Vic Andersen, Special Projects Section
Roger Thorvilson, Hazardous Waste Section

EPA Montana Office (449-5414)
Eric Finke, Chief, Hazardous Wastes and Toxic Branch

SOLID AND HAZARDOUS WASTE MEDIA WORK PLAN

ACTIVITY/OUTPUT	QUARTERLY MILESTONES 1	2	3	4	RESOURCES WORKYEARS STATE	EPA	DOLLARS STATE	EPA	RESPONSIBLE AGENCY
HAZARDOUS WASTE									
I. Program Development/Management									
A. Develop legislation/regulations equivalent to EPA and update according to MOA. Cluster 3.					.40	.10			SHWB, EPA
1. Develop regulations	1								
2. Submit to EPA for review	1								
3. Promulgate rules	1								
4. Prepare authorization application									
5. Submit application to EPA		1							
B. Develop authority to include provisions of Hazardous and Solid Waste Act Amendments of 1984. Cluster I.					.30	.10			SHWB
1. HSWA statutory review	1								
2. Submit to EPA for review		1							
3. Promulgate rules		1							
4. Prepare authorization application		1							
5. Submit application to EPA				1					
C. Update authorization MOA.					.05	.05			SHWB, EPA
1. Permitting				1					
2. Enforcement				1					

SOLID AND HAZARDOUS WASTE MEDIA WORK PLAN

ACTIVITY/OUTPUT	QUARTERLY MILESTONES 1	2	3	4	RESOURCES WORKYEARS STATE	EPA	DOLLARS STATE	EPA	RESPONSIBLE AGENCY
D. Participate in codification of authorized program.	As required								SHWB, EPA
1. Review State citations									
2. Submit copies of statutes and regulations									
E. Training									
1. Update training plan (as needed)	1				.50				SHWB
2. Implement staff training plan	Ongoing								SHWB
a. Permit Writing			1						
b. Personnel Protection			1						
c. Groundwater Monitoring			2						
d. Inspection Procedures			1						
e. Data Management			1						
3. Public education (Mandated by 1987 State Legislature.)	Ongoing								SHWB, EPA
a. Small quantity									
b. HSWA									
c. Waste minimization, technical assistance									
d. Public information									
e. Assessment of private waste services to small quantity generators									
F. Prepare FY 90 SEA Workplan				1	.02	.05			SHWB, EPA
G. Attend semi-annual regional meetings	1			1					SHWB
1. Spring									
2. Fall									

ACTIVITY/OUTPUT	QUARTERLY MILESTONES 1	2	3	4	RESOURCES WORKYEARS STATE	EPA	DOLLARS STATE	EPA	RESPONSIBLE AGENCY
H. Assist in conversion from HWDMS to RCRIS					.10				SHWB, EPA
1. QA State data	As required								
2. Clean HWDMS data	As required								
3. Participate in State/EPA RCRIS forum	As required								
I. Assess the need for a cooperative agreement for mine waste program, DOD/IRP, Land Ban, oil and gas waste and infectious waste; develop if needed.									SHWB, EPA
II. Implement State Hazardous Waste Program									
A. Compliance Inspections					2.20	.60			SHWB, EPA
1. TSD's									
a. Groundwater monitoring facilities									
(1) Compliance Eval. Inspec (CEI) (3 CEI's will be performed during the 3 CME's.)	2	2	1	4					SHWB
(2) Comprehensive Groundwater Monitoring Eval (CME 1/3) or Operation & Maintenance (O&M). In addition to CEI inspections.	1	1		1					SHWB, EPA SHWB
b. Non-groundwater monitoring facilities (50%/year)	2	1		1					SHWB, EPA
c. Record Reviews									
(1) Closure/post closure	2	1	5	2					SHWB
(2) Financial	2	1	5	2					SHWB

ACTIVITY/OUTPUT	QUARTERLY MILESTONES 1	2	3	4	RESOURCES WORKYEARS STATE	EPA	DOLLARS STATE	EPA	RESPONSIBLE AGENCY
2. Generators (>1000 kg)/Transporters	7	8	2	8					SHWB
3. Non-notifiers	6	4	3	7					SHWB
4. Follow-up	As Required								SHWB
5. Sampling (included in A.1-A.3 and A.7)	As Required								SHWB
6. Citizen complaints	As received								SHWB
7. SQG (<1000 kg)	10	5	5	10					SHWB
8. Federal Facilities (joint)	Included in A.1.b.								SHWB, EPA
9. State/Local (joint)	None anticipated								
10. Waste Oil	1	2							SHWB
B. Manifest Exception and Discrepancy Reports reviewed.	As Required								SHWB, EPA
C. Receive and process HW annual reports.	1								SHWB
D. Implement Facility Management Plans (See permitting and enforcement sections).									SHWB, EPA
1. Revise plans as necessary	1	1	1	1					
E. Permitting/Facility Management. Refer to Facility Management Plans for the specific facilities.					3.60	1.25*			
1. Permit application submittals	None Anticipated								SHWB, EPA
2. Operating Permits									SHWB, EPA
a. Review permit applications			2						MT/Denver
b. Prepare notice of deficiency				2					
c. Review notice of deficiency response	0								
d. Draft permits	3								
e. Public notice	3	1							
f. Issue final permits	3	1	1						

*Includes Denver Office resources for permit review/issuance.

SOLID AND HAZARDOUS WASTE MEDIA WORK PLAN

ACTIVITY/OUTPUT	QUARTERLY MILESTONES 1	2	3	4	RESOURCES WORKYEARS STATE	EPA	DOLLARS STATE	EPA	RESPONSIBLE AGENCY
3. Solid waste management units (EPA lead)									EPA, SHWB
a. Initial determinations	Completed								
b. RFA's (RCRA Facility Assessments)	1	0	1	2					
c. RFI's (RCRA Facility Investigations	1	0	1	1					
4. Closure/Post Closure Permit									SHWB, EPA
a. Review permit applications		2	5						
b. Prepare notice of deficiency		2	4	1					
c. Review notice of deficiency response		2	3	1					
d. Draft permits			2	3					
e. Public notice			2	3					
f. Issue final permits			2	3					
5. Corrective Actions	To be developed when RFI's completed								
F. Enforcement (timely and appropriate response to all noncompliance found)	Refer to Appendix D								SHWB, EPA
1. Enforcement Agreement - Modify Section VIII of the MOA to reflect EPA's current guidance on timely and enforcement.	1				.02	.02			SHWB, EPA
2. Significant Non-Compliers (SNCs) Treatment, Storage and Disposal Facilities (TSDFs)					.20				
a. Identify SNCs. (SNC list is updated by EPA/State at the beginning of the Federal FY 89).	10/88								SHWB, EPA
b. Take appropriate enforcement action to bring into compliance.	Refer to Appendix D								SHWB, EPA

ACTIVITY/OUTPUT	QUARTERLY MILESTONES 1	2	3	4	RESOURCES WORKYEARS STATE	EPA	DOLLARS STATE	EPA	RESPONSIBLE AGENCY
3. Other Enforcement						1.82			SHWB, EPA
a. Warning letters b. Notices of violation c. Compliance orders d. Administrative orders e. Civil actions f. Criminal actions g. Referrals to Attorney General h. Referrals to EPA	Report on Compliance Monitoring and Enforcement Log (CMEL) and summarize at mid-year and year end See Enforcement Agreement for Items a. through h.								
C. EPA Oversight						.60			EPA
1. Inspections	2	0	3	3					
2. Enforcement actions	See Enforcement Agreement								
3. Permit reviews			3						
4. Closure/post closure	0	0	2	3					
5. State program audits	0	1	0	1					
H. State Reporting					.15	.05			SHWB, EPA
1. Compliance Monitoring and Enforcement Logs (CMEL)	3	3	3	3					
2. Status of Permit Application Report	3	3	3	3					
3. Facility Status Sheet	3	3	3	3					
4. New Facility Info, Insp. Report, Public Notices									
5. Annual Report					1				
6. Statutory and Regulatory Changes				1					

SOLID AND HAZARDOUS WASTE MEDIA WORK PLAN

ACTIVITY/OUTPUT	QUARTERLY MILESTONES 1	2	3	4	RESOURCES WORKYEARS STATE	EPA	DOLLARS STATE	EPA	RESPONSIBLE AGENCY
III. Maintain Solid Waste Management Program									
A. Inspection and Enforcement									
1. Continued maintenance of a waste management inspection program.									
2. Prepare and initiate enforcement actions where violations of license conditions have occurred.									
3. Follow-up inspections where enforcement aaction has taken place.									
QUALITY ASSURANCE PLAN									
Quality Assurance Plan is current and consistent with 40 CFR 30.302 (d)(1) and 30.503. Milestones for QA commitments for hazardous wastes program are on page .									
TOTAL					9.14	2.86			

SOLID AND HAZARDOUS WASTE MEDIA WORK PLAN

ACTIVITY/OUTPUT	QUARTERLY OUTPUTS 1	2	3	4	RESOURCES WORKYEARS STATE	EPA	DOLLARS STATE	EPA	RESPONSIBLE AGENCY
UNDERGROUND STORAGE TANKS									
I. UST Program Development					2.0				SHWB
A. Develop legislative authority									
1. Continue initiatives for enabling legislation	In effect; additional may be developed								
2. Continue initiatives for State funding systems	Possible legislation								
3. Continue initiatives for local cooporation	Investigate alternatives								
B. Develop State technical regulations		1							
C. Develop State financial regulations	Dependent on Federal Rule								
D. Develop and submit State UST authorization application		1							
E. State staff training									
1. Submit plan to EPA	30 days								
2. Implementation	Ongoing as per plan								
II. UST Program Implementation					2.5	.60			SHWB, EPA
A. Technical assistance to regulated public	Ongoing								
B. Update notification system	Ongoing								

SOLID AND HAZARDOUS WASTE MEDIA WORK PLAN

ACTIVITY/OUTPUT	QUARTERLY MILESTONES 1 2 3 4	RESOURCES WORKYEARS STATE	WORKYEARS EPA	DOLLARS STATE	DOLLARS EPA	RESPONSIBLE AGENCY
C. Conduct outreach to regulated and general public (scheduled and structured).	Regional					
1. Workshops (joint structured)	3 Regional/EPA					
2. Information exchange	As needed					
3. Other (reports, guidance, talks, tv/radio, etc.)	As needed					
D. Enter into Memorandum of Agreement with EPA to jointly implement UST regulations prior to State authorization using State and/or EPA authority.	30 days after signing					SEA
- New tank installation (Interim Prohibitions)	5 5 5 5					
- Inspections of existing facilities	No commitment					
- Closures	5 5 5 5					
- Financial assurance	Dependent on Federal Rule					
- Enforcement	As needed					
E. Report quarterly	As prescribed					
	TOTAL					

SOLID AND HAZARDOUS WASTE MEDIA WORK PLAN

ACTIVITY/OUTPUT	QUARTERLY MILESTONES 1	2	3	4	RESOURCES WORKYEARS STATE	EPA	DOLLARS STATE	EPA	RESPONSIBLE AGENCY
LEAKING UNDERGROUND STORAGE TANKS TRUST FUND									
I. LUST TRUST FUND IMPLEMENTATION					4.5	.40		450,000	SHWB/WQB/EPA
A. Continue core program output development. (Majority should be completed in FY 88.)	Ongoing								
B. Develop State workplan by site and activities required; based on State priority system from generic Cooperative Agreement, and submit to EPA annually.				1					
C. Implement corrective actions.									
1. Emergency corrective actions	As needed								
2. Site specific investigations	As needed								
a. PRP identification									
b. Initial site assessment									
3. Site enforcement/negotiation	As needed								
4. Site remediation	As needed								
5. Oversite	Ongoing								
a. Trust fund (contractor)									
b. Responsible Party									
D. Citizen complaint followup	As needed								
E. Report quarterly	As prescribed								

ACTIVITY/OUTPUT	QUARTERLY MILESTONES 1	2	3	4	RESOURCES WORKYEARS STATE	EPA	DOLLARS STATE	EPA	RESPONSIBLE AGENCY
COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT (CERCLA)									
I. Investigate sources of release and threats of possible release of hazardous substances.									SHWB, EPA
A. Quarterly reports	7/30	10/30	1/30	4/30					
B. Preliminary Assessments									
C. Site Investigations									
D. Direct other FIT activities									EPA
E. Develop submission for National Priorities List (NPL)									
(See Multi-Site Cooperative Agreement for details.)									
II. Review and make funding determinations for CERCLA actions to control when responsible party fails to provide proper response.									EPA, SHWB
III. Implement Cooperative Agreements and SCAP/Site Management Plan commitments for remedial investigations/feasibility studies, remedial measures at specific sites, and intersite coordination. Submit quarterly reports.	7/30	10/30	1/30	4/30					SHWB, EPA
A. Milltown									
B. Silver Bow Creek									

SOLID AND HAZARDOUS WASTE MEDIA WORK PLAN

ACTIVITY/OUTPUT	QUARTERLY MILESTONES 1	2	3	4	RESOURCES WORKYEARS STATE	EPA	DOLLARS STATE	EPA	RESPONSIBLE AGENCY
C. Clark Fork Superfund Sites									
D. Montana Pole									
E. New sites (as identified)									
(See site-specific Cooperative Agreements for details.)									
IV. Provide management assistance to Federal-lead CERCLA activities.									
A. Number of sites dependent on FY 89 SCAP allocations.									
B. Quarterly reports	7/30	10/30	1/30	4/30					SHWB
(See Multi-Site Cooperative Agreement for details.)									
V. Monitor enforcement/remedial activities as specified in SCAP commitments and Site Management Plans at sites where responsible parties undertake clean-up activities.									EPA, SHWB
A. East Helena									
B. Anaconda Smelter, Anaconda									
C. Libby									
D. BN Somers									

ACTIVITY/OUTPUT	QUARTERLY MILESTONES 1	2	3	4	RESOURCES WORKYEARS STATE	EPA	DOLLARS	RESPONSIBLE AGENCY
E. Butte portion of Silver Bow Creek								
F. Idaho Pole								
G. New sites (as identified)*								
VI. Coordinate CERCLA activities with other statutes (e.g., RCRA/CWA, etc.)								EPA, SHWB
VII. All Quality Assurance Project Plans must be approved 30 days prior to sampling.	Within 30 days prior to sampling							

* Actual number of CERCLA actions initiated will be dependent on FY 89 resource allocations.

Pesticides

Montana is primarily an agricultural state, and as such, requires the use of pesticides to help manage a multitude of pest problems. Based upon data collected from commercial applicators, it is estimated that from 2.8-3 million acres are treated with pesticides commercially each year. There are no accurate statistics available for farm (private) applicators, but generally the farm applicators treat smaller acreages, do spot treating and field margin treating. In most years, farm applicators would probably apply pesticides to 1.5-2 million acres.

The Environmental Management Division (EMD), of the DOA, has a responsibility to not only serve Montana agriculture, but is also mandated to protect the environment and the health of the state's citizens. Toward this end, the Environmental Management Division administers a pesticide applicator and dealer licensing, permitting and certification program and a pesticide enforcement program.

Recertification of commercial applicators and dealers has been implemented. Farm applicators certified to use restricted use pesticides are on a five year requalification cycle, with applicators in one of the five agricultural districts being recertified each year. Commercial applicators and dealers are on a four year recertification schedule. The applicator categories have been divided among the four year period, so that not all categories are due for recertification or relicensing the same year.

EMD provides pest management services to producers, industry, government agencies and the general public. These services include providing information on integrated pest management procedures for specific cropping systems, recommendations on use of pesticides, identification and limited surveillance of pests; and the evaluation and resolution of the effects of pesticides on agriculture and the environment. The division also registers pesticide products (4,700) prior to their use in the state; licenses pesticide dealers (544), commercial and government applicators (1,257) and their licensed operators (878); licenses private applicators (7,538), and regulates the use and sale of pesticides. The department's analytical laboratory provides regulatory and service analysis to other departmental programs and to the general public.

Pesticide specialists conduct dealer, applicator and marketplace inspections following the field quality assurance manual and program. Compliance with record keeping requirements and other provisions of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) and the Montana Pesticide Act (MPA) is monitored and documented.

The DOA is now utilizing an enforcement response policy related to pesticide complaints and investigations as required by EPA.

The laboratory follows the EPA approved quality assurance program for all enforcement samples. Non-regulatory environmental samples follow quality assurance procedures if requested by the submitter. The laboratory participates in the EPA check sample and sample check analysis procedure programs.

A pesticide groundwater sampling program was started in FY 1984. Since then, new sample sites have been added each year as well as re sampling some positive wells to determine what was happening to the residue levels. As groundwater monitoring strategies have become available from other states, as well as on the federal level, the DOA has modified its monitoring scheme somewhat, so that results obtained here can be compared with results obtained elsewhere. As health guidance information becomes available on other pesticides, monitoring may have to be increased or decreased depending upon the quantity and degree of use in the state of any particular pesticide.

Monitoring for residues and potential environmental contamination resulting from the use of Specific Exemption (Section 18, FIFRA), Special local Need (Section; 24(c), FIFRA) and experimental use pesticides will continue in FY 1989.

The DOA's authority for registering pesticides, licensing and certifying applicators, licensing dealers and operators and for conducting inspections and pursuing enforcement actions is provided for in the Montana Pesticides Act, Section 80-8-101 through 306 MCA.

The DOA proposes to continue the comprehensive cooperative enforcement program with EPA through inspections (including use/misuse, restricted and general use products, records and proper licensing), investigations, pesticide sampling, laboratory pesticide analysis and enforcement actions. These activities would be continued under the quality assurance agreements made with EPA under previous grants. The DOA's pesticide specialists hold credentials and have the authority to uphold the mandates of the FIFRA as well as the Montana Pesticides Act.

The DOA has been granted "primacy" under Section 26 of FIFRA, as amended. It is the intent of the department to serve as the primary agency in conducting inspections, investigations and sample collection and analysis in accordance with EPA approved procedures and to take effective action against violators. The outputs listed in the media work plan reflect those that are funded by the EPA grant. The DOA will continue to issue and monitor Section 24(c)'s, Section 18's and experimental use permits.

The DOA's Field Services Bureau and Pesticide Analytical Laboratory will continue to maintain the quality assurance program for sample handling and analysis. The laboratory will provide pesticide analytical services to EPA and other states on a fee basis which will cover the cost of supplies, materials and communications.

Accomplishments in FY 1988

Enforcement

The DOA's Field Services Bureau met or exceeded outputs as agreed to in the 1988 Media Work Plan. The number of enforcement incidents were about the same in FY 88 as they were in FY 87. The case load in the past two fiscal years is lower than in prior year which, we believe, is due to an improved and more visible enforcement program, an improved certification program that trains licensed individuals to be better applicators and continued drought conditions which reduced the volume of herbicides applied

and the areas treated.

The laboratory met all of its projected outputs for [illegible]

Certification

The DOA's Technical Services Bureau met or exceeded all of the outputs listed under the FY 1988 certification program. Certification credentials were issued to nearly 5300 individuals and information on regulatory and certification requirements was provided to industry and the general public on a daily basis.

Objectives-Enforcement FY 1989

- The DOA will implement an inspection investigation program to monitor compliance with major pesticide regulatory actions which include: major cancellation actions; suspensions under Section 6 of FIFRA; change of a pesticide's classification to restricted use; stop sale, use, or removal orders issued for suspensions under Section [illegible] of FIFRA.

- The DOA will continue to investigate pesticide drift problems. With new products being developed such as biotechnological materials, the investigative procedures may need to be developed to respond to these changes in application techniques, application rates, active and inert ingredients, etc.

- The exposure of Montana farm workers and applicators [illegible] pesticides being used, i.e., handling, mixing, loading, application, storing, disposing, etc. remains a concern for Montana. Because violations of pesticide mixing, loading, application sites and treated fields in which workers may be exposed will be increased to determine if label safety requirements are being met.

- The DOA will intensify its efforts in investigating misuse of pesticides labeled for home, lawn, yard and garden use. In recent years there has been a noticeable increase in such incidents requiring more attention from the department field staff.

- The DOA will continue to identify possible groundwater problems [illegible] through pesticide monitoring and misuse investigations through sampling associated with existing and new sites.

- The DOA will continue, in cooperation with the DHES, an educational compliance and enforcement program on disposal of pesticides and pesticide containers in accordance with FIFRA, the Montana Pesticides Act, the RCRA and rules adopted thereunder. Most efforts will however be directed at the small quantity generators.

- The DOA will continue to identify illegal sales of restricted use pesticides to uncertified applicators through its establishment inspectional program and pursue appropriate enforcement actions.

The evaluation and establishment of priorities of the enforcement program will be conducted through a computer tracking system that was developed and implemented in FY 1987. This system contains information on all enforcement cases, and shows trends within one year or over several years. It will also be used for the reporting of inspections and samples to EPA on a quarterly and yearly basis.

Objectives-Certification

* The certification program is a federally mandated program which requires pesticide applicators using restricted-use pesticides to comply with state and federal certification standards. The Montana Certification Plan was approved by EPA and has been in effect since 1976. The state plan was amended to include some recent legislative changes as well as to add two new applicator categories. The amended plan was approved by EPA during FY 1987.

  Commercial and governmental applicators requesting certification have been certified, and the strategy will be to conduct at least one general certification course (20 hours) for new applicators who wish to be certified. Most of the farm (private) applicators who have requested certification have been certified. The strategy for the Cooperative Extension Service will be to conduct certification training for farmers in those counties where the need for certification is expressed.

  The DOA will maintain the data processing system for the storage of qualification data for dealers and applicators and for the issuance of certification credentials to qualified applicators as well as to newly certified individuals entering the system.

* The potential implementation of Endangered Species labeling during FY1989 will require development of training materials for certification and recertification training courses. Information on the National Groundwater Monitoring Program and the proposed farm worker protection regulations will have to be incorporated into existing training programs. Development of awareness programs and informational materials will require a substantial staff and resource commitment.

* The DOA will cooperate with the EPA's Regional review of pesticide applicator training programs, training materials and examinations. Implementation of any recommendations by the EPA to the DOA will be subject to existing program requirements, manpower and monetary resources.

* The DOA will cooperate with the EPA's Regional review of the state's approved state plan as it relates to the current state program. If there are any suggested changes requiring legislative action, these changes cannot be implemented until 1989.

* The DOA will address the certification and training outputs identified in the National Certification Program Guidance and, where applicable, develop a schedule to satisfy these outputs.

- The DOA will address the specific Montana certification recommendations made by EPA and, where applicable, develop an improvement schedule.

- The DOA will meet with Extension personnel at least twice in the 1989 (through the Joint Standing Application Certification Committee SACC) to discuss and evaluate the state pesticide applicator certification and training program, identify needs of the total program, and develop a plan of action to address the identified needs.

- Estimations for certification and training for FY 1989.

	Private	Commercial
Approved Training Sessions to be Conducted	45	
Training Sessions to be Participated in or Monitored	30	5
Applicators to be Certified	700	400
Applicators to be Recertified	1200	500

The certification and training sessions will continue to be evaluated via the evaluation forms completed by the participants at each session. Recommendations and suggestions are tabulated and recorded to make improvements in future sessions.

The agreement between DOA and EPA has many benefits. The primary benefit is that this agreement reduces the total operations and capital expenditures are not duplicated. DOA's pesticide specialists are certified as both state and EPA inspectors. This arrangement establishes a consistency in approach and objectives for the program. Because of this consistency, applicators and dealers are more cooperative and give better compliance. By having this agreement with EPA, communication is established between the states and EPA and it provides a better definition of national and state pesticide issues and problems.

The specific activities and accomplishment commitments can be found in the Pesticides Media Work Plan.

Contact Persons:

Environmental Management Division, DOA (406-28[illegible]

Gary Ginsberg - Administrator
Laszlo Torma - Laboratory Bureau Chief
Steve Barril - Field Services Bureau Chief
George Allgard - Technical Services Bureau Chief

EPA Montana Office (406-5[illegible]

Mesa Chaussee - Pesticides Manager
Dick Montgomery - Pesticides Branch Chief

PESTICIDE MEDIA WORK PLAN

ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	RESOURCES WORKYEARS EPA	RESOURCES DOLLARS STATE	RESOURCES DOLLARS EPA	RESPONSIBLE AGENCY
I. ENFORCEMENT PROGRAM							
A. Agricultural Use Inspections	15	30	.38		5,033	4,189	DOA
B. Agricultural Follow-up Inspections	20	35	.44		5,825	4,848	DOA
C. Non-agricultural Use Inspections	5	10	.13		1,712	1,426	DOA
D. Non-agricultural Follow-up Inspections	10	15	.22		2,913	2,424	DOA
E. Experimental Use Inspections	4	5	.04		537	447	DOA
F. Producer Establishment Inspections		10	.08		1,048	872	DOA
G. Marketplace Inspections	20	40	.11		1,456	1,212	DOA
H. Certified Applicator Records Inspections	30	60	.17		2,248	1,871	DOA
I. Restricted Use Sales--Pesticide Dealers Inspections	20	40	.11		1,456	1,212	DOA
J. Samples taken in the field	80	160	.25		3,321	2,764	DOA
K. Formulation Samples *	5	45	.27		1,538	30,888	DOA
L. Residue Samples *	75	115	.70		3,995	80,220	DOA
M. EPA Pesticide Samples *	45	120	.87			43,761	DOA
*Includes Quality Control Analysis. See page 64 for commitments.			3.77		31,082	176,134	

PESTICIDE MEDIA WORK PLAN

ACTIVITY/OUTPUT	MILESTONE		RESOURCES				RESPONSIBLE AGENCY
	THROUGH MIDYEAR	THROUGH END OF YEAR	WORKYEARS STATE	WORKYEARS EPA	DOLLARS STATE	DOLLARS EPA	
II. CERTIFICATION PROGRAM							
A. Issue Certification Credentials		3,100	1.40		19,265	19,265	DOA
B. Monitor Certification Program	1	2	.30		6,935	6,935	DOA
	TOTAL		1.70		26,200	26,200	
III. REPORTS							
A. Submit Summaries of Enforcement and Certification Data	Quarterly	Quarterly	.05				DOA
IV. EPA OVERSIGHT (Includes technical assistance, mid-year and annual evaluation, grant support, Section 18 and 24(c) support, etc.)				0.5			EPA
	TOTAL		5.52	0.5			

Toxics

Asbestos Hazard Emergency Response Act (AHERA)

EPA promulgated regulations which provide a framework for addressing asbestos problems in public schools. The rules cover all public and private non-profit elementary and secondary schools, and require local education agencies (LEA) (individual schools or school districts) to develop and submit asbestos management plans to the Governor for his review. Those plans are to be implemented by July 1989.

The rules also require the state, at its next legislative session, to adopt and implement an accreditation program for persons conducting asbestos inspections, developing management plans or designing or conducting response actions.

There are 544 active public school districts in the State of Montana, plus an additional 100 or more private schools. The task of reviewing and processing that many asbestos plans will be a substantial undertaking.

Polychlorinated Biphenyl (PCB)

In a regulation effective August 15, 1985, EPA required that all PCB transformers be registered with local fire departments by December 1, 1985. As a result, inspection of PCB transformers in commercial buildings must now be undertaken. These types of inspections will be conducted in FY 1989, in connection with the usual inspections of industrial and other users of PCBs. EPA has also published a final rule governing PCB spill cleanup policy. It establishes a range of decontamination standards depending upon the location and concentration of the spill.

TOXIC SUBSTANCES MEDIA WORK PLAN

ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	RESOURCES WORKYEARS EPA	RESOURCES DOLLARS STATE	RESOURCES DOLLARS EPA	RESPONSIBLE AGENCY
TOXIC SUBSTANCES*							
I. Provide assistance and technical advice to the State of Montana and/or school district administrators in complying with the asbestos rule.				.25			EPA
II. Ensure mutual information exchange regarding significant toxics activities.				.05			EPA
A. Provide quarterly list of inspections performed.	2	4					EPA
B. Notify State of cases filed by EPA within 4 days of the action.							EPA
C. Consult with State on methods of dealing with PCB users both from a consulting and an enforcement viewpoint.							EPA
III. Report within thirty (30) days incidents involving chemical contamination.							DHES, DOA EPA
IV. Implement PCB work plan.			.30				EPA
A. Inspect facilities which store or use PCB-containing materials.	4	8					
B. Prepare any technical documentation in support of enforcement actions for violations found during inspections within 45 days.							EPA
V. Implement Section 13 Imports Compliance Inspection program.	To Be Further Defined by Region			.10			EPA

TOXIC SUBSTANCES MEDIA WORK PLAN

ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	WORKYEARS EPA	DOLLARS STATE	DOLLARS EPA	RESPONSIBLE AGENCY
VI. Quality Assurance Plan is current and consistent with 40 CFR 30.302(d)(1) and 30.503. Milestones for QA commitments for toxics program are on page 64.							
TOTAL				.70			

*Final commitments will be adjusted upward or downward from those indicated above depending on the actual level of resources allocated to the Montana Office in FY 89.

Categorical

Public Participation

The comments of interested persons, lawmakers, state, federal and local health and/or environmentally-related agencies and appropriate citizen advisory groups were sought through the drafting and distribution of this agreement.

New phases of programs and developments were presented to interested persons and agencies via news media releases, newsletter articles, TV and radio media.

Emergency Response and Title III

Montana will continue to respond to accidental releases of hazardous substances in emergency situations. In addition to efforts by state and local agencies, the federal government, principally under the auspices of EPA and the Regional Response Team, will assist the Montana agencies upon request.

Since its passage in October 1986, the Emergency Planning and Community Right-To-Know Act (more commonly referred to as "Title III") has become a point of interest to local, state and federal agencies. The Act establishes major authorities relating to: 1) emergency planning, 2) emergency notification, 3) community right-to-know for reporting chemical substances and 4) emissions inventory.

Montana has created a State Emergency Response Commission (SERC) to direct the implementation of Title III. During FY 1989, the commission will continue to assist Local Emergency Planning Committees in each county throughout the state. EPA will assist state and local committees by providing educational material and help with training upon request, and within the limits of its resources.

CATEGORICAL MEDIA WORK PLAN

ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	WORKYEARS STATE	WORKYEARS EPA	RESPONSIBLE AGENCY
I. Emergency Response					
A. Immediate removal action in response to releases or substantial threats of releases of hazardous substances.	Quarterly Review	Quarterly Review	.10	.20	
1. Upon request by the State provide Federal on-scene coordinator (OSC) to monitor responsible party action for all severe releases requiring immediate removal.					EPA
2. Upon request by the State provide funding (if available) and OSC for immediate removal of releases when responsible party fails to provide proper response.					EPA
3. Carry out all State responsibilities under the State Environmental Emergency Response Plan and provide State OSC to monitor responsible party action for releases where Federal OSC not required.					State
B. Response to oil spills entering or threatening surface waters.	Quarterly	Quarterly	.20 Review	.20 Review	
1. Provide funding (if available) and direct cleanup of all spills when responsible party fails to properly respond.					EPA, State

CATEGORICAL MEDIA WORK PLAN

ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	WORKYEARS STATE	WORKYEARS EPA	RESPONSIBLE AGENCY
2. Provide OSC for all major and selected medium spills to monitor response by responsible party.					EPA, State
3. Provide OSC for selected medium and all minor (when necessary) spills and carry Plans. out responsibilities under State Contingency Plans.					State
C. Contingency Planning.			.10	.10	
1. Update Region VIII Oil and Hazardous Substances Pollution Contingency Plan.	Semi-Annual Review	EOY Review			EPA
2. Update State Environmental Emergency Response Plan.	Semi Annual Review	EOY Review			State
D. Training of State and Local Emergency Response Personnel.			.03		
1. Ensure adequate safety training provided to to State personnel responding to hazardous material emergencies.	Within 90 days of hire, refresher training annually				WQB
E. Support State Preparedness Planning.	Ongoing			.20	EPA
II. Flathead Basin Commission					
A. Serve as EPA representative on Flathead Basin Committee.	4 meetings			.05	EPA

CATEGORICAL MEDIA WORK PLAN

ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	WORKYEARS STATE	WORKYEARS EPA	RESPONSIBLE AGENCY
III. Public Participation			1.20	.96	
A. Maintain mailing list of persons and organizations who have expressed an interest in or may be affected by any environmental issue or program.	Review Semi-Review	Review EOY			DHES, DOA EPA
B. Provide draft and final Agreement to interested public.	5/88 7/88				EPA
C. Provide final SEA to State's major public libraries.	7/88				EPA
D. Collect news articles about pertinent programs to determine public opinion.	Ongoing				DHES, DOA EPA
E. Prepare news releases on important and developments in environmental programs.	As required				EPA
F. Informal and impromptu personal communications with individuals and groups.	Ongoing				DHES, DOA EPA
G. Provide speakers for interested groups.	As requested				DHES, DOA EPA

Quality Assurance

Quality assurance is a requirement of all programs.

A description of the work plans follows.

QUALITY ASSURANCE WORKPLAN

ACTIVITY/OUTPUT	MILESTONE	RESPONSIBLE AGENCY
I. ALL MEDIA except CERCLA		
Quality Assurance is a requirement of all programs involving any environmental related measurements or data generation.		
A. Review Quality Assurance (QA) Plan.	3/1/89	MDA, DHES
B. Provide statement that plan is current and covers project or develop and submit a revised or new QAPP to QAO.	4/1/89	MDA, DHES
C. Review and comment on statement, revisions or new plan.	4/30/89	EPA, QAO
D. Respond to review comments.	5/15/89	MDA, DHES
E. Final acceptance of statement or approval of revised or new QAPP.	6/1/89	EPA, QAO
F. Support State's Quality Assurance (QA) activities and provide assistance.	Ongoing	EPA
G. Analyze performance evaluation samples and report results.	Ongoing	MDA, DHES
H. Participate in systems audits.	As requested	MDA, DHES
I. Evaluate and certify State Principal Laboratory(s).	As scheduled	EPA, QAO
J. Submit a list of certified laboratories within Montana.	Annually	DHES
K. Evaluate and certify local laboratories (SDW program only).	Ongoing	DHES
L. Provide reference and audit samples.	As requested	EPA, CI
II. CERCLA		
All Quality Assurance Project Plans must be approved 30 days prior to sampling.	Within 30 days prior to sampling	DHES

COOPERATIVE ENFORCEMENT AGREEMENTS

Achieving and maintaining a high level of compliance with environmental laws and regulations is one of the most important goals of Federal and State environmental agencies, and is an essential prerequisite to realizing the benefits of our regulatory programs. While State and local governments have primary responsibility for compliance and enforcement actions within the State, EPA retains responsibility for ensuring fair and effective enforcement of Federal requirements, and credible national deterrence to non-compliance. An effective State/Federal partnership is critical to accomplishing these goals, particularly given limited State and Federal resources.

The inclusion of the enforcement agreements as appendages cover all aspects of the State's and EPA's compliance and enforcement programs including those activities involving Federal facilities within Montana. These agreements do not duplicate national program guidance. National policy will apply where not clearly specified elsewhere.

The Governor's Office has designated Mr. Brace Hayden as the focal point for Federal facilities compliance and enforcement strategies. All information relative to Federal facilities will be coordinated through him.

Appendix A

COOPERATIVE ENFORCEMENT AGREEMENT

Between

U. S. ENVIRONMENTAL PROTECTION AGENCY

and

STATE OF MONTANA
DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

National Pollutant Discharge Elimination System

PURPOSE:

The purpose of this Agreement is to provide for routine coordination and consultation on State and EPA enforcement activities. This Agreement serves to clearly define the State/Federal partnership in enforcement as described in the following documents:

1. Guidance for the FY 1989 State/EPA Enforcement Agreements Process.

2. Policy Framework on State/EPA Enforcement Agreements: Draft Addendum on Oversight of State Civil Penalties dated April 18, 1986.

3. The FY 1987 National Guidance for Oversight of NPDES Programs dated April 18, 1986.

SCOPE:

This Agreement establishes the routine consultation and coordination of State/EPA enforcement activities and defines the basic oversight criteria for timely and appropriate enforcement actions.

BACKGROUND:

In accordance with the Federal NPDES regulations, the State reviews all appropriate compliance information for all permittees and prepares and submits to EPA the Quarterly Noncompliance Report (QNCR). This document serves as one of the basic mechanisms for coordinating and overseeing activities involving major permittees. As an additional oversight procedure, EPA

Region VIII reviews selected compliance information (primarily inspection reports and selected DMR's for major facilities) and where appropriate, may issue an NOV to the State where significant noncompliance (SNC) is found. State response to EPA issued NOV's is to be reported to EPA in writing within 30 days.

NONCOMPLIANCE CONSULTATION AND COORDINATION:

EPA and State compliance staff consult and coordinate related enforcement activities on a day-to-day basis in a cooperative and professional manner to ensure the most efficient and effective State and Federal compliance actions.

Specifically, at a minimum, EPA and the State will review each month the status of permittees on the Quarterly Noncompliance Report (QNCR), any outstanding Notices of Violation (NOV), and all violations by all permittees. Participants are the State permits and compliance staff, as appropriate, and the Montana EPA office permits and compliance engineer.

Prior to the meeting, the State develops a summary of all violations and any supplementary information. During the meeting, the most recent QNCR is reviewed to determine if any permittee on the QNCR has continuing violations. A written record is maintained to document all State and/or EPA actions taken with regard to all violations, significant or not. A full range of enforcement actions may be taken, including joint issuances of Notices of Violations (NOVs).

At the first monthly meeting following submittal of QNCR, the State and EPA discuss any EPA comments on the State's preceding QNCR. EPA's comments may include: the permittee in question, the State action in question, the recommended action to be taken by the State and/or EPA, and the State's average response time and average compliance rate.

The common goal of the State and EPA is to cause permittees to achieve prompt and sustained compliance. If full agreement on appropriate State and/or EPA actions cannot be reached, the discussion will be escalated to the next administrative level by both parties.

REPORTING:

The State submits QNCR's to EPA by August 31, November 30, February 28, and May 31 of each year in accordance with 40 CFR 123.45. Also the State submits a listing of all formal

enforcement actions taken during the quarter within one week after the end of the quarter. These reports cover the July-September, October-December, January-March and April-June quarters, respectively. State formal enforcement actions are defined as: administrative orders issued; civil referrals to the State Attorney General (submittal of Violation Report Forms (VRF's) to Legal); civil complaint filings in State court; consent agreements filed in State court (Consent Decree, Judgment and Order settlement); and criminal referrals to the State Attorney General. The State maintains a log of all penalties assessed, suspended and collected.

CIVIL PENALTIES:

The State has developed a draft written civil penalty policy. EPA review comments will be considered as the policy is finalized during FY 89. The policy states under what circumstances the State will seek civil penalties. The State's policy considers at minimum the economic benefit of noncompliance, the seriousness of the violations, the number of violations, the environmental harm done, and the recalcitrance of the violator. The policy includes a worksheet on which the penalty may be calculated.

STATE CONSENT AGREEMENTS AND JUDICIAL REFERRALS:

The State will continue to consult and coordinate closely with EPA on all consent agreement negotiations and judicial referral preparations. Specifically, the State and EPA will consult regarding the contents and terms of consent agreements before signing and judicial referrals before filing. Included in the discussions will be a summary of the violations and the penalty calculations used to determine the proposed penalty.

EPA ENFORCEMENT ACTIONS:

EPA will consult and coordinate closely with the State on all direct enforcement actions, including imposition of administrative penalties, it considers in the State. EPA may send a Notice of Violation (NOV) to the State wheresignificant noncompliance has occurred and the State has not, in the opinion of EPA, responded appropriately. EPA will consider Federal enforcement action when any of the following situations exist: the State requests EPA direct enforcement; a violation of an EPA administrative order or consent decree occurs; a legal precedent under national environmental laws is present; when necessary to ensure the viability of a national initiative (example: NMP);

unresolved interstate issues are present; the State is not operating a portion of the NPDES permit program in lieu of EPA (example: pretreatment); in the judgment of EPA the State has not addressed all appropriate violations or responded to an EPA issued NOV, or has not initiated a timely and appropriate enforcement action, or has obtained a penalty or sanction which does not meet EPA's standards under the circumstances of the violations. All enforcement requirements upon the State as a consequence of this Agreement shall be upon EPA when EPA seeks to take enforcement actions in Montana.

ATTORNEY GENERAL INVOLVEMENT:

It will be the responsibility of the State Environmental Agency to keep the State Attorney General informed of planned EPA direct enforcement actions.

FEDERAL FACILITIES:

Federal facilities will be treated under this agreement in the same manner as non-federal permittees. EPA will be notified of State enforcement actions on Federal facilities. In the spring of each year the Federal Facilities Coordinator will send to the State the A-106 listing of Federal facility pollution control projects for review and comment. The State will be asked to identify missing necessary water pollution control projects.

PRETREATMENT:

Until the delegation of the pretreatment program authority to the State occurs, EPA will remain primarily responsible for enforcement activities regarding pretreatment. The State is encouraged to conduct pretreatment inspections and to provide EPA any information it finds regarding pretreatment violations. Once delegation is granted the State shall be responsible for pretreatment actions to the same degree and extent as any other NPDES violation.

OVERSIGHT CRITERIA:

To implement the above-cited EPA policy and guidance, the following enforcment response guidelines will be followed:

A. Timeliness

1. The State will evaluate instances of noncompliance by major permittees and P.L. 92-500 minor permittees within 30 days from the identification of a violation; determine the appropriate response, and document any action taken/not taken (including the technical reason).

2. In the case of major permittees, the State is expected to have already initiated an enforcement

action to achieve compliance by the time the permittee appears on the QNCR.

3. Prior to a permittee appearing on the subsequent QNCR for the same violation, the permittee should either be in compliance or the State should have taken formal enforcement action to achieve final compliance.

B. Appropriateness

1. Formal enforcement action should be the response to significant noncompliance listed on a QNCR. Formal enforcement actions are defined as those which (a) clearly define the violation(s) identified, (b) require corrective actions by a specified date, (c) describe enforcement consequences should the violations not be corrected as required, and (d) can be independently enforced without proving the original violation.

2. A judicial referral should be utilized where:

   a. An administrative order has been violated.
   b. The violation must be stopped immediately.
   c. Long-term compliance must be compelled.
   d. A substantial economic benefit has been obtained from acts of noncompliance.
   e. A deterrent is needed to prevent others from similarly violating the law.

3. A monetary penalty should be sought in each judicial referral or consent agreement (regardless of the facts).

4. The size of the penalty to be obtained shall be reviewed in light of and commensurate with one calculated using EPA's Clean Water Act Civil Penalty Policy.

Appendix B

COOPERATIVE ENFORCEMENT AGREEMENT

Between

U.S. ENVIRONMENTAL PROTECTION AGENCY

and

STATE OF MONTANA
DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

Public Water System Supervision Program

I. PURPOSE

The purpose of this agreement is to detail the Montana Department of Health and Environmental Sciences (MDHES) and EPA activities which will be conducted to increase the compliance levels of public water systems to achieve State and Federal Drinking Water goals.

II. COMPLIANCE PRIORITIES AND STRATEGIES

A. Federal Reporting Data System (FRDS)

This national data base serves as a storage system for the inventory and violation information on all of the regulated public water systems (PWS). It also is the basis for the Public Water System Supervision Program grant allocations. The State agrees to provide inventory, violation and enforcement updates to this system within 60 days of the end of each quarter.

B. Federal and State Priorities

1. Region VIII priorities for the Drinking Water program are outlined in the "Water Program Guidance for State/EPA Agreements". The major priorities outlined in this document include long range planning for regulatory change, enforcement and compliance and the lead ban.

2. One of the MDHES's highest priorities is to eliminate, or provide treatment for, surface water sources with no treatment or with disinfection as the only treatment.

C. Compliance Strategy

The Drinking Water Section is implementing the Compliance Strategy that was submitted to EPA during FY 86.

D. Inspection/Sanitary Survey Policy

The Drinking Water Section currently uses the following priorities to determine when water systems will be inspected.

1. Priority I (Inspected ASAP)

   a. Systems suspected of water-borne disease outbreaks.

   b. Systems which may, for any reason, endanger public health.

2. Priority II (Inspected annually)

   a. All surface water supplies.

   b. All supplies that are persistent violators of the bacteriological or chlorine residual monitoring requirements.

   c. All supplies with known problems (operational, MCL, monitoring, system integrity, etc.).

   d. All systems on a compliance schedule.

3. Priority III (Inspected once every three years)

   Ground water supplies with no known significant problems or deficiencies.

   The number of sanitary surveys/inspections performed will be reported to EPA quarterly.

E. Compliance Targets

The compliance target is based upon improving significant noncompliance (SNC) violators. The national definition of SNC is:

1. Four or more months in a 12 month period of MCL violations for any of these contaminants: microbiological, turbidity or trihalomethane.

2. Twelve consecutive months of non-monitoring for the above contaminants.

   The maximum number of SNC's during FY 89 based upon this definition is ten.

III. COMPLIANCE MONITORING

A. State Data System

The Drinking Water Section currently utilizes a combination of methods to receive and record data, determine violations, track compliance and initiate follow-up. The following describes the method used for each of the required groups of parameters that are monitored:

1. Bacteriological - All laboratories send the results of analyses directly to the Drinking Water Section. Individual results are entered into a computerized data system. Monitoring violations are determined monthly, utilizing the computerized data and the program written for this purpose. Missing data initiates follow-up action in the form of routine letters of violation being sent to the violating water system. Any result with a positive coliform count receives immediate attention from the staff until the problem is resolved.

2. Turbidity - Water systems send the results of daily monitoring each month (on forms provided to them) to the Drinking Water Section. The monthly average and the fact that they have monitored are transposed to a summary sheet. The results of this are scanned monthly and routine letters sent out as needed.

3. Inorganic and Organic Chemicals and Radionuclides Analyses are entered into a computerized system. Samples are collected by the MDHES as needed during a routine inspection of the water system. Since all existing water systems have been routinely monitored at least twice, all existing violations have been identified. New water systems are required to have an analysis done before they are allowed to begin operation.

B. Certified Lab Program

To insure that the sample results received by the Drinking Water Section accurately reflect the actual quality of the water systems, all samples are required to be analyzed in a MDHES certified laboratory. The MDHES's lab certification program received EPA approval on March 28, 1978. The Drinking Water Section's Quality Assurance policies have also received EPA approval.

IV. NONCOMPLIANCE RESPONSE

A. Compliance Strategy

The MDHES's "Compliance Strategy" (see Section II Compliance Priorities and Strategies) establishes the basis and procedures for all routine noncompliance decisions concerning follow-up and enforcement.

B. Significant NonCompliance (SNC) Violators

It is important that SNC violators be acted upon in a timely manner. The Drinking Water Section will have all SNC violators returned to compliance, or have an enforceable compliance schedule with the SNC violator, or have submitted information to the Legal Division requesting that a formal enforcement action be taken against the SNC violator within two quarters on the time that the violator first appears on the SNC list. The priority for which course of action to be followed will be determined by available resources.

C. Enforcement Actions

The MDHES currently tracks all drinking water enforcement actions. The Drinking Water Section will report these quarterly for entry into FRDS. It is important that enforcement actions be taken in a "timely and appropriate" manner.

D. Enforcement Action Targets

The FY 89 target for legal enforcement action against persistent or SNC microbiological and turbidity MCL and monitoring violators is 10 civil cases referred to the Legal Division of MDHES.

E. EPA Enforcement Involvement

EPA involvement in formal enforcement cases will follow the guidance put forth in a memo dated April 10, 1984 from Victor Kimm, Director, Office of Drinking Water to Louise D. Jacobs, Associate Enforcement Counsel for Water. The memo is entitled "Draft Enforcement Guidance Regarding Public Water systems in States Which Have Primary Enforcement Responsibility."

EPA will become involved when invited by the MDHES under Section 1414(b)(2) of the Safe Drinking Water Act or when the MDHES is ineffective in applying their compliance strategy or following up on SNC violators within a reasonable amount of time. EPA will not take a unilateral enforcement action within Montana, without first giving proper notification to MDHES, as per section 1414(g)(2) of SDWA.

Appendix C

COOPERATIVE ENFORCEMENT AGREEMENT

Between

U. S. ENVIRONMENTAL PROTECTION AGENCY

and

STATE OF MONTANA
DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

Air Program

I. SCOPE

A. The purpose of this agreement is to delineate and clarify the responsibilities of the EPA and the Montana Department of Health and Environmental Sciences (MDHES) in the implementation of all federally enforceable air pollution control requirements for stationary sources within Montana. It is expected that a Federal-State partnership will result which will effectively carry out the intent of the Clean Air Act. It is anticipated the protocol will be modified and expanded in future years to reflect changes in state and national policies.

It is assumed the MDHES will address violations of air pollution regulations within its jurisdiction. It is not intended that focusing on a limited group of violators for purposes of this protocol will detract from the importance of addressing other violators and the rights and responsibilities of the MDHES or EPA to do so.

B. This protocol applies to the following types of violations:

1. Class A SIP sources which are in or adjacent to a nonattainment area and which violate a standard limiting emissions of a pollutant for which the area is nonattainment;

2. Class A sources in violation of an NSPS, PSD, nonattainment,or permit requirement;

3. Class A sources that are repeat violators;

4. Class A sources violating an MDHES or EPA Consent Order;

5. Class A sources in violation of an MDHES or EPA enforcement order; and

6. NESHAPS violations; the timelines provided in Section II and III do not apply since the seriousness of the violation normally would require expedited action.

C. This protocol does not apply to emergency episodes, sources constructing without a valid permit, or violations of Montana standards which are not federally enforceable (e.g., fluoride-in-forage, hydrogen sulfide, etc.). In the case of emergency episodes, the seriousness of the violations will require expedited action. In the case of a source constructing without a permit, options for obtaining relief may be foreclosed by allowing the source to continue to construct and, therefore, expedited action may be essential.

II. TIMELINES FOR ENFORCEMENT ACTION

A. Enforcement action schedules begin 30 days after the date of the inspection or receipt of a source self-monitoring report which first identifies the violation. This should provide sufficient time for an evaluation of the inspection or source report to determine if a violation exists. If, however, during this 30-day period, the MDHES determines that a stack test or a sample analysis is required to confirm the violation, the enforcement action schedule (clock) does not start until the date of receipt of the stack test or sample analysis report.

B. By day 45, the source should be notified by the MDHES of the violation and its need to remedy the violation. Notification shall be in written form. The source may also be advised by phone of the forthcoming notification or action.

C. By day 120, the source shall either be:

1. in compliance;

2. on an enforceable MDHES administrative or judicial order;

3. on a scheduled appeal of an MDHES administrative order to the Board of Health and Environmental Sciences; or

4. subject to a proposed SIP revision which has been scheduled for a hearing and which Region VIII Montana Office staff believes is likely to be approved.

Failure by MDHES to also seek a civil or criminal penalty in accordance with Section IV of this protocol may result in a separate or joint action by EPA.

D. MDHES will monitor conformance with any "schedule of compliance" issued in accordance with this protocol. MDHES will keep EPA informed of the violator's progress toward compliance according to established reporting requirements. If a SIP revision is initiated, EPA will monitor the progress of the revision through Montana's administrative process. If a SIP revision becomes unduly delayed, EPA will discuss this with the MDHES and may choose to initiate a parallel federal action. No formal timelines are established for this stage of the enforcement process.

E. If none of the actions specified in C. above have occurred by day 120, EPA will discuss with the MDHES the status of its actions and its expectations. If discussions suggest that Montana is near a resolution of the violation or that further deferral is otherwise appropriate, EPA will defer any action. If EPA determines that further deferral is not justified, it will proceed with its own action.

F. When EPA takes the lead in a case, it will act to get the source in compliance, on a schedule, or subject to Section 120 action or judicial referral within 120 days of its assumption of the lead. MDHES participation in the action will be encouraged, even though the lead has been assumed by EPA. The possibility of a joint action will be considered as an alternative to a unilateral EPA action where feasible.

III. ISSUANCE OF NOV'S BY EPA

A. At day 90, EPA, after consultation with MDHES on the progress of the case to date, may take one of the following actions as circumstances dictate:

1. initiate case development activities through an inspection or issuance of a Section 114 letter;

2. advise the source that EPA will issue an NOV in 30 days if the source does not reach an

acceptable resolution with the MDHES before that date. (This will be used only where such an action by EPA is likely to be of significant value in prompting the source to reach an acceptable agreement with the MDHES); or

3. issue an NOV, if requested to by the MDHES, or if it is clear that a resolution will not be reached by the state by day 120 and that the environmental significance of the source warrants EPA action.

B. EPA will routinely issue NOV's on (or shortly thereafter) day 120 if the violations are not resolved according to II.C of this protocol. (NSPS sources will receive Section 113 Orders rather than NOV's.)

C. Any NOV issued on day 120 will be issued only after consultation with the MDHES. If there is some compelling reason why the NOV should not be issued, EPA will defer its issuance. However, this is not anticipated to occur in most cases.

D. Any NOV issued by EPA in accordance with A.3 or B. above will indicate that EPA is still looking to the MDHES to resolve the matter and further EPA action will be required only in the absence of an acceptable, prompt resolution.

E. If EPA finds a violation independent of the MDHES, EPA may immediately issue an NOV. (Does not apply if violations were discovered in a joint inspection.) However, prior to a decision to issue an NOV, EPA will discuss with Montana the circumstances of the violation. EPA will resolve in consultation with the MDHES who will take the lead for the source and the nature and timing of follow-up action.

F. EPA will transmit to the MDHES copies of all NOV's it issues to sources in Montana. If the violation clearly impacts upon the air quality of an adjacent state, EPA will transmit a copy of the NOV to that state as well.

IV. PENALTIES

A cash penalty of sufficient magnitude appropriate to the violation is required as an element of the resolution of the following classes of violations. If the penalty is not obtained by the MDHES, an EPA action will be brought. Also, if MDHES chooses to obtain a compliance schedule but not a penalty, a separate EPA action may be appropriate.

The classes of violations subject to this protocol for which a significant cash penalty are required are:

A. Class A SIP sources which are in or adjacent to a nonattainment area and which violate a standard limiting emissions of a pollutant for which the area is nonattainment unless it can be established that the source does not contribute to a violation of a National Ambient Air Quality Standard.

B. Class A violators of nonattainment, PSD, or NSPS requirements which continue to operate after failure to demonstrate initial compliance. (This does not apply during periods which regulations specifically allow for start-up, debugging, etc.).

C. Violators which Montana or EPA determines are repeat violators.

D. NESHAPS violators.

V. CONSULTATION AND DATA TRANSFER

A. EPA and the MDHES will conduct at least monthly consultations to discuss compliance efforts. During these discussions, information exchange relative to obtaining compliance and penalties will occur. This exchange will include at least the following items:

1. The MDHES will identify any newly-found violators subject to this protocol.

2. The MDHES will identify sources notified of noncompliance during the month consistent with Section II.B.

3. The MDHES will identify violators which the state has taken action against consistent with Section II.C., including penalties as noted in Section IV.

4. The MDHES will discuss the status of other pending enforcement actions as appropriate.

5. EPA will identify sources for which it has completed action and provide the status of other sources where action is pending or in progress.

6. EPA will identify any sources it found in violation and confer with the MDHES in accordance with Section III.D.

B. The CDS will be updated by EPA on a monthly basis, based on information provided by the MDHES, to reflect:

1. compliance status changes for newly-identified violators which are in violation on the last day of the month prior to the consultation and which were or are expected to be in that status for 7 days or more;

2. sources notified of noncompliance;

3. sources with completed enforcement actions, including any schedules and incremental dates for returning them to compliance; and

4. sources found to be in compliance with final limits.

C. Inspection results other than those affected by the above will be provided in accordance with current practices and EPA accountability system requirements.

D. EPA and Montana will share inspection results and monitoring reports for use in enforcement proceedings to the extent practicable.

Appendix D

COOPERATIVE ENFORCEMENT AGREEMENT

Between

U. S. ENVIRONMENTAL PROTECTION AGENCY

and

STATE OF MONTANA
DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

Hazardous Waste Program

I. INTRODUCTION

This Agreement defines the relationship between the Montana Department of Health and Environmental Sciences (MDHES) and the U. S. Environmental Protection Agency (EPA) Region VIII, relative to enforcement of hazardous waste requirements in Montana and may be referred to as the hazardous waste program "Enforcement Agreement".

One of the goals of both the Resource Conservation and Recovery Act (RCRA) and the Montana Hazardous Waste Act (MHWA) is to protect human health and the environment. The EPA and DHES recognize that for this goal to be fully met, a high level of compliance with applicable standards must be maintained within the regulated hazardous waste community. To do this requires the establishment of a credible enforcement presence by the State of Montana and EPA.

DHES has primary responsibility for the administration and enforcement of MHWA, administrative rules implementing MHWA, and policy, as recognized by EPA approval and formal authorization of the Montana hazardous waste program. EPA will act in an overview capacity relative to enforcement under the authorized program, exercising its own enforcement authority only where DHES has requested EPA involvement or when DHES's enforcement response is determined by EPA to be inappropriate or untimely. EPA retains the primary responsibility to enforce standards under the Hazardous and Solid Waste Amendments of 1984 (HSWA) until such time as such HSWA standards are approved as revisions to the Montana program under 40 CFR 271.21.

Nothing in this Agreement shall be construed to constitute a valid defense by regulated parties in violation of any Montana or Federal environmental statute, regulation, or permit, or order.

II. DHES ENFORCEMENT

DHES agrees to take timely and appropriate enforcement action against all persons in violation of MHWA, hazardous waste management rule implementing MHWA, permit conditions and all other program requirements, including violations detcted by DHES or EPA inspections. DHES will maintain procedures for receiving and considering information about violations submitted by the public and will provide written response to all complaints duly submitted by the public.

DHES will refer to EPA suspected violations which it notes through inspection or other means for hazardous waste activities within Indian reservations, violations which are primarily interstate in nature, violations of HSWA requirements not yet included in the authorized Montana program or other violations for which an EPA enforcement response is appropriate.

DHES will deem the time-frame used by EPA in its definition of "timely and appropriate" to be general goals to strive for, for good program performance and as guidelines that EPA and DHES should use to review progress in individual cases. It is presumed that if such goals are not met, EPA may take direct enforcement action. It is mutually understood that judgment on what is a reasonable timetable for action must ultimately be case specific. Factors, for example, of type of violation, complex negotiation, investigation, testing, production and analysis of evidence and unique questions of law requiring additional time for case analysis shall be deemed to impact and possibly alter EPA established timetables. Emergency enforcement actions by EPA or DHES, shall likely be taken in shorter time-frames than the established time tables.

It is acknowledged that the definition of "appropriate" shall serve as a guideline and as a common goal for EPA and DHES. Insofar as choice of response by DHES to a violation, permit revocation or cleanup orders shall be deemed acceptable as possible response actions to violations by all classes of violators when taken in a timely manner. The EPA and DHES will seek to reach an understanding on DHES's penalty rationale in accordance with the FY 1989 Montana/EPA Agreement schedule, with maximum flexibility allowed to the State. It shall be understood that there are several types of enforcement responses which may be appropriate in attaining a desired compliance result. Finally, where insufficiency of resources is cited by DHES a reason for delayed response action to a violation, EPA shall work with DHES to identify ways in which EPA can help to make up the

deficiency in resources, but the insufficiency of resources shall not preclude EPA from taking direct enforcement action.

III. DIRECT EPA ENFORCEMENT

EPA may, pursuant to RCRA Section 3008(a)(2), take enforcement action against any person it has cuase to believe to be in violation of RCRA, any applicable State hazardous waste administrative rule, or any permit condition issued by either DHES or EPA, after giving notice to the DHES director in writing of EPA's intent. (Notice of EPA's intent will normally be provided first to the Solid & Hazardous Waste Bureau). Where EPA intends to take an enforcement action for a violation of a requirement of the authorized Montana program, DHES will be provided at least thirty (30) days advance written notice of such intent. The notice shall specify why EPA thinks that any action taken or proposed by DHES is inappropriate. If DHES disagrees with EPA's determination that its action is inappropriate, it may discuss this with EPA during the thirty (30) day period discussed above. If, at the end of the thirty (30) day period no agreement has been reached as to what constitutes an appropriate enforcement action and/or DHES has not initiated an appropriate enforcement action, EPA may then initiate enforcement action. EPA also reserves the right to issue orders and bring actions under RCRA Sections 3008(h) and 3013 (after notice to DHES as provided above) and Section 7003 (after verbal or written notice to DHES).

EPA agrees to take timely and appropriate enforcement action for violation for HSWA requirements which are not as yet part of the authorized DHES program, as well as for violations occurring within Indian reservations. EPA will respond as appropriate to DHES referrals of such violations. When EPA intends to take enforcement under its HSWA authority or for violations on an Indian reservation, and when such proposed enforcement is not the result of a DHES referral, EPA will provide DHES prior written notice (normally at least 7 days) as a courtesy to the authorized Montana program.

IV. CRITERIA FOR DIRECT EPA ENFORCEMENT

A. EPA is responsible for taking enforcement action under the following circumstances:

1. For violations of HSWA requirements which have not yet been made a part of the authorized Montana program.

2. For violations which occur within Indian reservations, according to the "Indian Policy Implementation Guidance Memorandum" dated July 18, 1984.

3. For violations which are interstate in nature or will set a national precedent and for which DHES and EPA agree that a DHES enforcement action could not be as effective as enforcement by EPA.

B. EPA may take enforcement action under the following circumstances:

1. If EPA determines that DHES enforcement action is not timely and appropriate, and after the notice period specified above.

2. When requested in writing by DHES.

3. When an EPA order or consent decree has not been complied with by the date specified in the order or decree.

4. When EPA has determined that an imminent and substantial endangerment to human health or the environment exists, and after giving verbal or written notice to DHES.

V. DEFINITIONS FOR TIMELY AND APPROPRITATE ENFORCEMENT

A. Violation Definitions

The RCRA Enforcement Response Policy classifies individual facility violations into one of two categories.

1. Class I Violation

Deviations from regulations, or provisions of compliance orders, consent agreements, consent decrees, or permit conditions which could result in a failure to:

a. Assure that hazardous waste is destined for and delivered to authorized treatment, storage, or disposal facilities (TSDFs); or

b. Prevent releases of hazardous waste or constituents, both during the active and any applicable post-closure periods of the facility operation where appropriate; or

c. Assure early detection of such releases; or

d. Perform emergency clean-up operation or other corrective action for releases.

2. Class II Violation

Any violation of a RCRA requirement that does not meet the criteria listed above for Class I violations.

Class II violations are defined in the negative; i.e., they include all violations that are not considered Class I, and therefore, are those violations which do not involve deviations from requirements which could result in failure to: 1) assure that wastes are destined for only atuhorized TSDFs, 2) prevent releases, 3) assure detection or 4) perform corrective action for such releases.

B. Violator Definitions and Enforcement Responses

A RCRA handler is classified as a violator based upon the nature of his or her violation(s) along with a number of other factors (e.g., compliance history, previous recalcitrant behavior, etc.). The Enforcement Response Policy establishes three categories of violators - High Priority, Medium Priority, and Low Priority - and define timely and appropriate enforcement response.

1. High Priority Violator

   a. Definition: A High Priority Violator is a handler who:

      - Has caused actual exposure or a substantial likelihood of exposure to hazardous waste or hazardous constituents; or

      - Is a chronic or recalcitrant violator (This may include some handlers who are regularly found to have many Class I or Class II violations.); or

      - Deviates from terms of a permit, order or decree by not meeting the requirements in a timely manner and/or by failing to perform work as required by terms of permits, orders, or decrees; or

      - Substantially deviates from RCRA statutory or regulatory requirements.

   b. Appropriate Response - High Priority Violators

      The response timeframes allow 45 days from the day an inspection is completed to identify or "discover" the violations.Once violation discovery is made, it is expected that, for HPVs, within 90 days a formal administrative enforcement action will be taken, or a judicial action will be taken within 150 days.

2. Medium Priority Violator

   a. Definition: A Medium Priority Violator is a handler with one or more Class I violations who does not meet the criteria for a High Priority Violator. Handlers with only Class II may also be Medium Priority Violators when the compliance official believes an administrative order is the appropriate response to a facility with only Class II violations.

b. Appropriate Response - Medium Priority Violators

The appropriate response to the Medium Priority Violator is either the issuance of an administrative order or a less formal response which results in compliance within 90 days of violation discovery. If the decision is made to issue an order, the order should be issued within 120 days of violation discovery.

Where there is reason to believe a Notice of Violation (NOV) or Warning Letter (WL) will bring about a timely return-to-compliance, this less formal action may be used in response to Medium Priority Violators. If the initial NOV or WL does not result in final compliance or a compliance schedule incorporated in an enforceable order within 90 days of violation discovery, a decision must be made to escalate. Escalation entails either development of a judicial case or development and issuance of an administrative order. For generators with no violations of land disposal restriction requirements, up to 120 days may be allowed to return the facility to compliance before escalation is required.If an administrative order is chosen as the escalated response, the State has 60 days to develop and issue the order. If a judicial action is selected, the State has 150 days to file the case.

3. Low Priority Violator

a. Definition: A handler who has only Class II violations who is not a Medium or High Priority Violator.

b. Appropriate Response - Low Priority Violators

A Low Priority Violator will normally receive an NOV or Warning Letter as the initial response within 60 days of violation discovery. If this response does not result in expeditious compliance, normally within 30-60 days of issuance, a decision will be made whether to escalate to a more formal enforcement response (e.g., administrative order).

4. Definition of "Violation Discovery"

A violation is discovered as of the date when the case development staff determines through review of the inspection report correspondence and/or data that a violation has occurred. The time allowed for discovery from the date of inspection or record review is 45 days. Where there are more complicated situations, for example, where chemical analysis of samples is required, the timeframe may be greater.

VI. EPA OVERSIGHT OF DHES ENFORCEMENT

The effectiveness of DHES's enforcement activities will be evaluated in EPA's general program overview. The enforcement performance of the Montana program will be evaluated on the basis of the following documents, current copies of which will be provided to DHES by EPA as revisions may occur:

1. DHES authorization application and agreements, as amended.

2. Compliance enforcement criteria as contained in the "National Criteria for Quality Hazardous Waste Management Program under RCRA", most current revision. (Exception: Timelines contained in that document are superseded by the timelines in V above.)

3. The "Hazardous Waste Program Oversight Plan for Montana" (most current version).

4. The annual Montana/EPA Agreement as written to reflect the most current RCRA Implementation Plan.

VII. FEDERAL FACILITIES

If EPA responds to violations at Federal facilities, such enforcement shall be in accordance with Agency policy entitled "Federal Facilities Compliance Program--Resolution of Compliance Problems at Federal Facilities". Nothing in this Agreement shall preclude DHES from responding to violations at Federal facilities as provided for under MHWA and RCRA, consistent with the Authorization of the Montana program.

VIII. PUBLIC NOTIFICATION

DHES and EPA agree to issue press releases, where appropriate, on major enforcement actions taken by either agency. EPA generated press releases will acknowledge relevant DHES actions and accomplishments.

IX. EXPIRATION, TERMINATION AND REVISIONS

This Agreement shall continue in effect unless terminated or revised by written agreement, signed by the DHES Director and the Regional Administrator for EPA. This Agreement will be reviewed at least on an annual basis and may be updated, as appropriate.

Appendix E

COOPERATIVE ENFORCEMENT AGREEMENT

Between

U.S. ENVIRONMENTAL PROTECTION AGENCY

and

STATE OF MONTANA
DEPARTMENT OF AGRICULTURE

Pesticides Program

RELATING TO the cooperative enforcement of the laws enacted by the United States of America and the State of Montana to protect man and the environment from unreasonable hazards associated with pesticide production, sale and use.

I. Preamble

The Regional Administrator, U. S. Environmental Protection Agency Region VIII and the Director of the Department of Agriculture of the State of Montana hereby enter into this Cooperative Enforcement Agreement. This Agreement sets forth each agency's responsibility for the cooperative enforcement of the laws enacted by the United States of America and the State of Montana to protect human health and the environment from the improper use and illegal sale of pesticides. Both agencies agree that cooperative pesticide enforcement is necessary and desirable to assure the efficient allocation of public funds, to minimize duplication of enforcement efforts and to more appropriately respond to pesticide emergencies, accidents, and unusual enforcement needs. This Agreement recognizes the primary enforcement responsibility of the Montana Department of Agriculture as defined in Section 26 of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended.

II. Program Elements

The Montana Department of Agriculture agrees to conduct the following program elements:

A. Inspection Procedures, Sampling Procedures, and Sample Integrity.

All investigations, and all sampling will be conducted in accordance with the Montana Pesticide Act (Title 80, Chapter 8, MCA), and the Department's field and laboratory procedures manuals, utilizing inspection

forms equivalent to those contained in the EPA Pesticides Inspection Manual. Sample integrity will be maintained during collection, transport, storage, and analysis according to the quality assurance plans adopted by the Department and approved by EPA.

B. Cooperative Enforcement Action

EPA's enforcement role is shifting from a primary focus on performing inspections and taking enforcement actions to an emphasis on conducting reviews and evaluations and providing states with guidance and technical assistance in order to assure adequate performance of state compliance and enforcement programs.

The Congress of the United States has charged EPA to delegate responsibility for administering most environmental programs to the states as they demonstrate the desire and capability to assume primacy. The Congress, however, continues to hold EPA accountable for ensuring that its laws are carried out according to its intent.

The relationship between EPA and delegated states is intended to be a partnership. Both EPA and the states have continuing roles and responsibilities under delegated programs that are most effectively planned and executed together. States are better suited to address specific problems as they arise on a day-to-day basis, and EPA should strive to strengthen and assist state programs.

EPA also has a role as a partner to the state to serve as a back-up in enforcement areas by providing direct enforcement actions when needed. Region VIII will endeavor to assist state compliance and enforcement programs when requested. EPA may also take independent enforcement action in those cases where a state demonstrates it is not willing to establish a strong enforcement presence or is unable to do so due to a lack of necessary resources or requisite legal authority under the providions of Section 26 and 27 of FIFRA.

It is agreed that when evidence collected reveals a possible violation of only the Montana Pesticides Act, only the Montana Department of Agriculture will pursue remedies for such violations as provided for in the Montana Pesticides Act. Where such evidence reveals a possible violation of both Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) and the Montana Pesticides Act, the Montana Department of Agriculture shall have primary enforcement responsibility for

pesticide use violation enforcement. EPA will refer all pesticide use complaints to the Department for investigation. Pursuant to the Agency's final interpretive rule regarding Section 26 of FIFRA, cases deemed by EPA to be "significant cases" will be so designated and the disposition of such cases will be monitored by EPA. If within 30 days after receipt of a complaint referral from EPA, the State has not initiated an investigation, EPA may conduct its own investigation of the complaint. If, within thirty days after completion of the investigation of a complaint referral, the State has not commenced appropriate enforcement action, EPA may act upon the violation to the extent authorized by FIFRA as amended. At the option of the State, complaints or violations may be referred to EPA Region VIII Montana Office for action. In any pesticide investigation on Federal or Indian Lands where the State is not sure of its jurisdiction, the case will be referred to EPA, Region VIII Montana Office for action.

In those cases where there is a lack of agreement over who should take action, which cannot be resolved at the program level, the issue will be referred to the EPA Regional Administrator and the Director of the Department of Agriculture. In rare cases if clearly unacceptable performance by a state which show lack of good faith or capacity on the part of a state to correct problems, EPA is prepared to take back a delegated program. Taking back delegated responsibilities, however, must occur in a consistent and predictable manner, under pre-defined conditions and circumstances and in accordance with Section 27 of FIFRA.

Under Section 26 of FIFRA, EPA does not have authority to delegate primary enforcement responsibility for any area of enforcement except pesticide use. The Department has been delegated primacy for pesticide use enforcement. Pesticide use enforcement consists of ensuring compliance with the applicator certification requirements and with all labeling requirements. It is made up of two types of inspections: use inspections and misuse inspections. Misuse inspections are initiated in response to complaints, damage reports, or referrals when there is reason to believe that a violation has occurred whether or not it is actually proven. A use inspection may be initiated as an observation of an actual pesticide application or as an inspection following an application when there is no reason to believe that a violation is occurring.

Pesticide use enforcement for reporting and grant purposes, includes monitoring the use of pesticides

under Section 5, 18, and 24c of FIFRA. The monitoring of experimental use permits (Section 5) and emergency exemptions (Section 18(will involve inspecting users and distributors to ensure that the terms of the permit as well as the labeling are adhered to. EPA, however, has the final responsibility for ensuring that the terms of an emergency exemption are complied with and cannot, by the nature of the exemption process, delegate that responsibility.

Section 23 of FIFRA authorizes EPA to cooperate with states in the enforcement of FIFRA in areas other than use. The Department agrees to accept the responsibility of conducting non-use related inspections as described below and to take corrective enforcement action.

1. Certified Commercial Applicator License and Records Inspections

   These types of inspections are conducted at the certified commercial applicator's place of business or in accordance with Rule 4.10.207 of the Administrative Rules of Montana (ARM). The purposes of these inspections are to determine if the applicator is properly certified and licensed, is maintaining the required records, is making application only in the uses for which he is certified, and to determine if his records show that his applications have been in compliance with all applicable laws and regulations.

2. Restricted-Use Pesticide Dealer Records Inspections

   These types of inspections are conducted on-site at dealers who sell restricted-use pesticides or in accordance with Rule 4.10.504 ARM. The purposes of these inspections are to determine if the dealers are properly licensed and are maintaining the required records, and to review the dealers' records to determine if restricted-use pesticides are being sold only to certified applicators or other properly authorized persons.

3. Marketplace Inspections

Marketplace inspections are inspections conducted at the retail or wholesale level for the purpose of determining product registration status, proper storage and display, any labeling violations, and any product decomposition. Marketplace inspections should be given a low level of priority unless product violations rates and compliance ratios show that such inspections will prevent significant harm.

The Department will also monitor the disposition of chemicals which have been cancelled or suspended. Pesticide disposal practices which are suspected violations of the Montana Hazardous Waste Act (Title 75, Chapter 10, part 4, MCA) will be addressed in accordance with the memorandum of understanding on Enforcement, Regulation and Management of Waste Pesticides and Containers (July 1983) between The Montana Department of Agriculture and The Department of Health and Environmental Sciences.

The responsibilities of the State under this subsection B will be reviewed on a semi-annual basis by EPA. EPA will maintain an "oversite" program whereby EPA personnel may accompany individual State inspectors on various types of inspections to coordinate and improve actual investigation procedures.

The Montana Department of Agriculture will notify the Pesticide Program Manager, EPA Region VIII Montana Office, within one week of the discovery of any suspected violations of the FIFRA which do not fall within the State's delegation. The Program Manager will confirm the existence of FIFRA violations and will maintain liason with the State on the disposition of the case.

If requested by the State, EPA and the Department of Agriculture will establish a program to provide training for Montana's inspectors, chemists and legal staff in areas of pesticide sampling, analysis and enforcement consistent with EPA practices and procedures.

The results of all chemical analyses performed under this Agreement, and the quality and sufficiency of all other evidences gathered in the course of any of the inspectional or investigatory activities are reviewed by the Department of

Agriculture according to the Departments field and laboratory quality assurance and procedures manuals. When this review reveals evidence of a violation of any provision of the Montana Pesticides Act or of the FIFRA, the Director shall accumulate, organize, and document all substantial and relevant evidence. Where EPA and the Montana Department of Agriculture determine that EPA shall be a party to an enforcement action based upon evidence collected, the Montana Department of Agriculture file shall be made available to the designated EPA attorney, Region VIII.

C. Reports

The Montana Department of Agriculture shall submit, all reports to the State program manager at EPA Region VIII Montana Office, according to the commitments and time frames specified in the annual workplan in the STATE/EPA Agreement (SEA). EPA Region VIII Montana Office shall prepare and submit to the Department of Agriculture draft and final written evaluations of the Departments midyear and end of year performance. Such review by EPA will specifically consider:

1. The number of inspections in each inspectional category;

2. The future performance of any overdue commitments;

3. The actual accomplishments made by the Department;

4. Those areas in which performance and cooperation by the Department or the EPA may be improved.

Information acquired through the Department of Agriculture enforcement and technical programs is provided to the Montana Cooperative Extension Service through a cooperative agreement in order to update and improve the States pesticide applicator and dealer training courses. The Department of Agriculture is also encouraged to study the impacts of pesticides in the environment as they relate to enforcement matters.

III. General Conditions

It is mutually agreed that each agency shall:

A. Maintain a close working relationship and exchange information relative to the agencies' planned pesticide surveillance/enforcement activities;

B. Coordinate investigations and enforcement actions involving violations of both the FIFRA and the Montana Pesticides Act to avoid duplication of effort;

C. Perform its inspectional, analytical and case preparation activities in a manner designed to assure sample integrity, chain of custody, the use of standard methods of analysis, the sufficiency and adequacy of the evidence, and the violator's right to administrative due process;

D. Periodically meet with the other agency to evaluate the performance of each agency with regard to the procedural, planning or surveillance elements of this Agreement.

Nothing in this Cooperative Enforcement Agreement modifies other existing agreements except as specified, nor does it preclude entering into separate agreements which set forth procedures for special programs which can be handled more efficiently and expeditiously by such special agreement.

Nothing in the Cooperative Enforcement Agreement is binding on the State of Montana if sufficient funds are not provided by EPA to allow the State to carry out the agreed upon functions. Also, provided that the Department is carrying out the agreed upon functions in a manner satisfactory to EPA, the latter will not perform similar functions in the State.

Nothing in this Cooperative Enforcement Agreement is intended to usurp the authority of EPA to commence enforcement actions for alleged violations of the FIFRA. Similarly, nothing in this Agreement is intended to usurp the authority of the State of Montana to commence enforcement actions for alleged violations of the Montana Pesticides Act.

This Cooperative Enforcement Agreement, when accepted by both parties, shall continue in effect unless modified by the mutual written consent of both parties or terminated by either party upon a thirty (30) day advance written notice to the other.

ATTACHMENT E-1

Formal EPA Referrals Agreement
on
Pesticide Misuse Situations for FY 88

1. Those significant use complaints received by EPA, from sources other than the Department of Agriculture, which meet the conditions set forth in this document may become referrals under Section 26 and 27 of FIFRA.

2. A formal referral must include at a minimum, the following information: name of complainant, address, telephone number, date of complaint, name of individual receiving complaint, details of the complaint, why the referral is significant, and how it meets these conditions set forth in this Agreement. EPA must also provide the names of other parties it has contacted concerning the complaint.

3. Specific conditions which determine if a complaint is significant may include all or one of the following items:

   a. Human Health - Death or any pesticide illness requiring medical treatment by a physician.

   b. Endangered Species - one or more endangered species; death, illness or significant exposure.

   c. Food and Water - Food or water, for immediate human consumption, is or is alleged to be or may become contaminated at or above established federal tolerance levels or other recognized standards.

   d. Economic Loss - (crop or domestic livestock) over $3,000 (estimate by complainant).

   e. Illegal use of a cancelled or suspended pesticide.

4. Complaints referred to the state by EPA which do not meet the above conditions are not formal referrals.

   Transmittal of complaints from EPA to the state shall be accomplished in the following manner:

   a. Initial contact shall be with the Field Services Bureau Chief, 444-2944, or if he is not available the following individuals may be contacted in the order presented:

      Administrator, Environmental Management Division - 444-2944
      Technical Services Bureau Chief - EMD - 444-2944
      Deputy Director - 444-3144
      Director - 444-3144

   b. The EPA primary contact will be the Montana Operations Office Pesticides Program Manager - 449-5414. The EPA secondary contact will be the Montana Operations Office Chief of the Air, Water, Pesticides and Indian Programs - 449-5486.

   c. Negotiations on all aspects of referrals shall be managed by the Administrator of the Environmental Management Division of the Department and by the Chief of Air, Water, Pesticides and Indian Programs of the Environmental Protection Agency. If resolution is not possible, then the Director of the Department and the Director of the Montana Operations Office may negotiate the final decision.

5. These referral conditions and guidelines will be reviewed as part of the development of the FY 89 SEA and all parts will be open to negotiations.